DOCUMENT RESUME

ED 184 492 HE 012 557

AUTHOR Carter, Virginia L., Ed.; Garigan, Catherine S., Ed.
TITLE CASE Planned Giving Ideas. The Best of CASE CURRENTS.
INSTITUTION Council for Advancement and Support of Education, Washington, D.C.
PUB DATE 79
NOTE 36p.; Charts may not reproduce clearly.
AVAILABLE FROM Publications Order Dept., Council for Advancement and Support of Education, Box 298, Alexandria, VA 22314 ($9.50; 10 or more $7.00)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS Administrator Characteristics; Administrator Education; Alumni; *Educational Finance; Endowment Funds; Estate Planning; *Fund Raising; Higher Education; Income; Interpersonal Competence; Marketing; Nonprofit Organizations; *Private Financial Support; *School Business Officials; Taxes; *Trusts (Financial); Volunteers
IDENTIFIERS Charitable Trusts; *Deferred Giving; *Donors

ABSTRACT

Collected are articles by planned giving (deferred giving) experts on institutional commitment, policies, and programs to encourage various types of gifts to higher education institutions: bequests, unitrusts, annuity trusts, charitable income trusts (lead trusts), pooled income funds, gifts of land and so on. A major article covers how to hire and train planned giving officers, and another discusses tax developments and their impact on planned giving. A second part deals with relationships crucial to success of the deferred giving program: relationships with prospects, the donor's advisers, volunteers, campus business officers, and professionals in estate planning. The collection consists of articles from "CASE Currents," a bulletin of the Council for Advancement and Support of Education. Authors include Norman S. Fink, William B. Dunseth, Harvey Devries, Karen Grabow, Jane Stuber, J. Robert Sandberg, Charles W. Patterson, III, Linda J. Thoren, David W. Clark, James R. Bergdoll, Charles W. Collier, Robert L. Kaiser, Duncan Hartley, Roger Thaler, Bruce W. Flessner and John S. Ryan, and James Stevens. (Author/MSE)

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CASE Planned Giving Ideas

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The Best of CASE CURRENTS

Edited by Virginia L. Carter and Catherine S. Garigan

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Suite 400, Eleven Dupont Circle, Washington, DC 20036

Contents

1. Introduction

Planned Giving: Perspective for the '80s
Norman S. Fink 1

2. Plans, Programs, and Policies

Pardon Me, but . . . Your Zeal is Showing
William B. Dunseth 4

Wanted: Planned Gift Officer
Harvey Devries and *Karen Grabow* 6

Managing Pooled Income Fund Trusts
Jane Stuber 10

A Roadmap for Gifts of Land
J. Robert Sandberg 11

Mutual Benefits in Promoting Bequests
Charles W. Patterson, III 14

A Marketing Perspective: Charitable Trusts
Linda J. Thoren 15

Tax Developments and Their Impact on Planned Giving
David W. Clark 18

Don't Defer Deferred Giving
James R. Bergdoll 21

3. Cultivating Relationships

Face to Face: Cultivating Planned Giving Prospects
Charles W. Collier 23

Using Volunteers
Robert L. Kaiser 24

The Initial Interview
Duncan Hartley 26

How to Work Effectively with a Donor's Adviser
Roger Thaler 27

Educating the Experts
Bruce W. Flessner and *John S. Ryan* 28

You and the Business Office
James Stevens 29

1

introduction

Planned giving: Perspective for the '80s

BY NORMAN S. FINK
Counsel, Development Program
University of Pennsylvania

To many fund raisers, the term deferred giving refers to all gifts *except* those that are physically passed, like a football, from the hand of the giver to the hand of the receiver. In deferred gifts, there can be short and long passes, even laterals and end around plays. However, bequests, insurance policy gifts, life income trusts, pooled income fund gifts, charitable gift annuities, and remainder interests in farms and homes seldom pass simply and quickly from the giver to the receiver.

I prefer the term *planned giving* to *deferred giving*. Judge Learned Hand once said: "Words are not only the keys of persuasion but the triggers of action." Indeed, the institution's enjoyment of a charitable gift may be deferred, but when your donor transfers securities to you to fund a charitable remainder unitrust or annuity, he or she has made a *present transfer*. This is a gift—even though the donor's life and that of his or her spouse represent your institution's waiting period. Such a gift is irrevocable, unlike a provision in a will, which can be revoked by rewriting.

Nonetheless, even in the case of a revocable bequest, it is not uncommon to hear a contributor to your institution say, "I have provided for the university in my will." In the donor's mind—at least 9 times out of 10—the gift has been made, and it ill behooves you to suggest otherwise.

A gift often expresses one person's relationship to another person or institution. Because people express themselves in different ways, it is helpful for colleges and universities to have available different gift options for their donors. The broad planned giving option embraces many different methods from which the donor with professional guidance may choose.

It is taking time for us to realize and develop the potential of this category of giving. It is, after all, more complex than the simple signing of a check. To understand where we are and where we are going in planned giving, it might be helpful to see where we've been.

A glance at the past

Let me take you back to 1960 and use the University of Pennsylvania as my example. It was then that the bequest and deferred gift program started at Penn in a modest way, although such gifts were received even in colonial times. In the '60s, many people considered a discussion of bequests to be unseemly or even macabre. Accordingly, we mailed a simple brochure reciting recent testamentary gifts to the university to senior alumni and friends. The brochure was sponsored by a committee of distinguished alumni—most of them members of the bar.

As time went on, it became clear that bequests represented the principal source of gifts to the university's endowment. We organized volunteer class bequest counselors, and the unspoken became the spoken. The university, through these class counselors, asked alumni to remember Pennsylvania in their estate plans. A number did—and told us about it. The growth of that precious group of far-sighted philanthropists became our continuing goal.

An important milestone in this chronology is The Tax Reform Act of 1969. For the first time, a federal statute spelled out the ways in which charitable remainder life income trusts could be established so as to qualify for tax deductions. Congress created substantial income, gift, and estate tax incentives for individuals who placed support for the university high among their social priorities. Particularly, the statute made it possible to provide such support while retaining a life income—to receive a present income tax deduction while avoiding tax liabilities such as capital gains tax.

With the opening of these new vistas and during a two-year wait for the necessary IRS regulations, it became clear that those persons who had already decided to do something for Penn in their estate plans were natural prospects for the life income trust gifts. They had made the commitment to give, and now all that was necessary was to decide the best method to implement that important decision.

[*Editor's note:* In its past four fiscal years, the University of Pennsylvania has received a total of $35,787,532 in planned gifts, representing 35.5 percent of all gifts from individuals. Life income trusts received were in excess of $13 million.]

A glimpse of the future

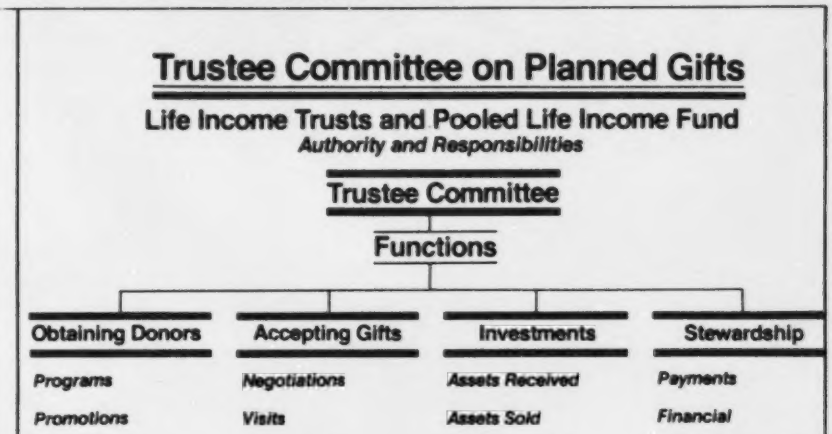
In the '80s, institutions that fail to include planned giving in their development portfolios will risk losing the allegiance of major donors, their descendants, devisees, and distributees—along with their substantial donations. Such a policy is indefensible.

To achieve success, schools, colleges, and universities will have to be decisive in their goals and aspirations, determined and candid in their academic and financial planning, and dedicated to high standards in their presentation for support. Raising large sums of money or property from the private sector will require inspired trustee leadership, imaginative adaptation to change, and the careful, skillful use of all the tools of the trade. To development officers will fall the responsibility of articulating and translating these aspirations to alumni and friends to encourage them in solidifying the institution's future.

Professionalism is today's hallmark of successful fund raising. In this new era, planned giving represents one of the most significant and sophisticated tools with which the seasoned fund raiser can strive to assure the financial security of his or her institution and serve the donor's personal interests at the same time.

The professional's commitment

Roscoe Pound, a great legal scholar and former dean of the Harvard Law School, defined a "profession" this way: "Historically, there are three ideas involved in a profession: organization, learning, and a spirit of public service. These are essential. The remaining idea, that of gaining a livelihood, is incidental." Development officers who are achievers, and particularly those who solicit planned gifts, fall, in my opinion, within that definition. It is to that professionalism that this article is devoted.



This chart outlines responsibilities that the governing board takes on when it commits itself to a life income trust program and suggests the staff necessary to carry out these responsibilities.

The key to a successful life income trust and annuity program is thorough and careful preparation. It was Oliver Wendell Holmes who said: "Every calling is great when greatly pursued." Bringing a life income trust or gift annuity to fruition usually takes 18 to 24 months, during which time they are indeed "greatly pursued." The fact that a major planned gift requires months and sometimes years of consistent cultivation means this is no business for the transient. Indeed, it's an ideal calling for an emeritus college president or retired dean.

Once your careful cultivation results in an agreement, that's only the beginning. Such agreements involve lifetime contact with the beneficiary with payments to be made and with investment results and tax consequences of the year's payments to be forwarded.

But a balance sheet or profit and loss statement of a life income gift and annuity account reflects only a small part of the relationship between donor and his or her beneficiaries and the institution. You have to look further to understand that relationship in terms of past and potential gifts to the institution.

Because human motives and feelings are involved, charitable fund raising will continue to be as much an art as a science.

As a professional, you must be able to communicate to the potential donor the special character of your institution: its origins, its history, and its traditions. No insti-

tution can offer more than the other by way of tax incentives. But each has its own special stamp and productive social purpose.

Not only do you have to know the status and aspirations of your institution and as much as you can about the prospective donor, you must also understand the nature and consequences of various methods of charitable giving.

A basic understanding of the federal income, gift, and estate laws is important. For one thing, you need to recognize *when* to seek professional tax and legal advice. But always keep the matter of taxes in perspective. Whatever incentives the law may provide, they are common to all similar charitable gifts. *It takes something more than income tax deductions to create philanthropic support.* It takes a high degree of trust and confidence among the donor, the beneficiary, and your institution.

It is essential that this trust not be destroyed. It can be—by late or incorrect payments, inadequate and tardy reports, or lack of response to any call or letter, even one that seems unimportant.

A "trust" is just that—a documented expression of confidence, faith, and dependence. A "trustee" is a fiduciary whose rights and duties are well defined by law. When an institution is both trustee and ultimate beneficiary, it takes on an added responsibility for successful, impartial management of the trust assets.

A professional will never compromise the integrity of the institution by accepting opportunities that are not in the best interest of the donor or the beneficiaries, however attractive they may otherwise appear.

The institution's commitment

In asking for charitable remainder life income trust gifts and annuities from donors, a school, college, or university undertakes a commitment as a fiduciary. From the common-law traditions of the 17th century to modern precedents, the responsibilities of a fiduciary are uncompromising: full disclosure, complete fairness, and reasonable prudence. The leaders of the institution must understand the commitment that such a program demands; they must be willing to proceed not as spectators but as energetic participants.

Commitment must start with the governing board. Its members must want this program. They must understand that in time and properly mounted, it will produce assets that will enable them to plan for the future with confidence. They must not be afraid that it will rob current funds. They must show the determination to make the investment in the future *now*.

To make the program a success, the trustees or regents must act aggressively. They must actively seek out gifts and provide adequate staff and resources for a full and effective program.

To succeed, a planned giving program should incorporate the following considerations:

- The institution must gain rather than lose from contributions in the form of charitable remainder life income gifts or annuities. (A cost-benefit and cost-efficiency study of planned giving is in progress at Pomona College with the generous support of the Lilly Endowment. This study, to be completed in the fall of 1980, will offer methods and criteria to judge the value of planned giving programs and to shape such programs with good business acumen so that they are truly productive to the institution.)
- The institution should evaluate periodically its life income gift and annuity program to assure that the advantages to the institution outweigh the disadvantages.
- The institutional development program should include a range of methods of giving, encouraged by tax incentives, so that its donors have options available to fit their circumstances.
- Because new methods of giving require new methods of preparation, solicitation, and management, the institution and its staff must be alert to respond to changing laws and circumstances.
- The institution's fund-raising officers, its lawyers, and those charged with the management and disposition of these funds must coordinate their efforts and communicate continuously and constructively.
- The institution must draw up sanguine and productive guidelines for its planned giving program; however, they should be flexible enough to accommodate special situations.
- The institution's stewardship in managing the planned giving program should be of a quality that will encourage repeat gifts.
- All known legal risks must be overcome in the negotiation and execution of life income gift agreements.
- Responsibilities and authority must be defined and delineated to permit prompt and efficient decision making.

The accompanying chart outlines responsibilities that the governing board takes on when it commits itself to a life income trust program and suggests the staff necessary to carry out these responsibilities.

Looking ahead, there is no end of challenges. With the signing of a life income trust or annuity, relationships with donors and beneficiaries flourish. The prize for successful and thoughtful management can be additional gifts.

The rewards to all, both tangible and intangible, can be great. Whether the gift is large or small, it is inspiring to realize how deep are the wells of devotion and commitment to the ideals it exemplifies. To continue to deserve that commitment is the challenge to all of us. CASE

2

plans programs and policies

Pardon me, but. . . your zeal is showing

Measuring institutional commitment to the annuity and charitable trust development program

BY WILLIAM B. DUNSETH
Special Assistant to the President and Counsel for Development
Pomona College

I'll tell you a true story: A couple of decades ago the trustees of a small independent college in the Midwest decided to boost a half-hearted, inadequate development program. They called in one of the foremost consultants on fund raising.

He met with administrators and trustees all day and had dinner with the development committee of the board. After dinner, he left for a few minutes, saying that if checks and pledges for money to underwrite a year's development costs were on the table when he returned, he would know the trustees were committed to the program. If so, he would be glad to help. When he returned, the table was bare. He left.

The development program continued to limp along with inadequate, inexperienced staff, and to this day, that institution is in a bind. I know because I was there. I was the inadequate, inexperienced staff. I learned a big lesson —the vital necessity of institutional commitment, whether to development or to any other college operation. More than lack of funds, lack of leadership saps an institution's strength.

Private giving through an organized program offering gift annuities, charitable remainder trusts, and bequests is our newest major form of fund raising. We've been soliciting gifts from individuals for centuries, but formally organized alumni funds, annual giving programs, major gift campaigns, and corporate and foundation support programs are creations of the last half century. These types of solicitation are easy to understand, and the potential is alluring. Schools, colleges, and universities have shown their commitment to these programs by the money they've budgeted.

It has not been so with planned giving. Charitable organizations have been writing gift annuities for more than a century. Some institutions, particularly religious ones, have had semi-formal programs for soliciting such gifts for years.

In the early '40s, Allen Hawley, vice president of Pomona College, had a new idea. He believed he could reach people who wanted to give significantly but could not give up the income from their capital. He took his idea to his trustees; and the Pomona Plan was born.

From the beginning, this plan had one special ingredient—the commitment of trustees and administrators to a new concept of fund raising. They showed their commitment in two ways: by allocating adequate money and by allowing sufficient staff time. It takes both to follow up, in person, all prospective donors.

Over the past 20 years, however, I have seen far too many charitable organizations simply declare the existence of annuity and trust programs and then fail to follow through with institutional commitment. I am afraid that the responsibility for preparing and executing gift annuity agreements, pooled funds, unitrusts, and annuity trusts falls too often to people who don't know how to do the job.

This can create serious problems. Donors may misunderstand what they're getting into. Gift agreements may fail to qualify for charitable deductions. These disasters-looking-for-a-place-to-happen can be avoided if trustees and administrators will make planned giving an equal partner in the development program.

I know how hard it is to allocate scarce resources to an area of development that may not benefit the institution for years to come. But this program serves donors who usually cannot choose between an outright gift and a deferred gift. The reason: They need continuing income from their capital.

Planned giving benefits both these donors and our schools, colleges, and universities. The donors get the same joy of giving experienced by those who can afford large outright gifts while they are alive. Meanwhile, we increase the assets irrevocably committed to our institutions.

The program must be active and aggressive. If the governing board fails to underwrite it, this should certainly be the result of a deliberate decision. It should not happen by default. We can no more expect results from the annuity and trust program without giving adequate institutional support than we can expect educational quality without furnishing the resources for good teachers and essential teaching equipment.

What do I mean by institutional commitment? It starts with the president and the governing board. They must have conviction—conviction that the program enhances the development program, ensures the future of the institution, and doesn't detract from current support. Their commitment shows when they allocate the required funds and allow the necessary time.

Commitment shows when the institution puts out a good case statement articulating its reasons for existence and its goals for the future. Affirming the institution's value to society is essential for a successful annuity and trust program, especially where, as at Pomona, it relies on donors with no particular connection to the college. Lacking the alumni's emotional ties to the institution, these donors must be convinced of the value of the cause they support.

The institution's worth derives from its uniqueness; the case statement must highlight that uniqueness. After all, every charitable organization—every church, hospital, children's home —can offer the same tax benefits and the same giving plans. Therefore, we must present a very special reason why the donor should choose our institution.

We need to tell prospective donors where the college is headed. This re-

assures those whose gifts will not be available until some years in the future. He or she must believe in the institution's future in order to make a decision now.

An institution shows commitment to planned giving when its development officers uphold the highest ethical standards. We in planned giving often meet complex situations. We may find ourselves being tested by a potential donor who wants to see just how far we might be willing to go in using our tax-exempt status to benefit him or her. We might even wind up in a bidding war with another college, a war started innocently or deliberately by a potential donor waiting to learn who offers the highest rate of return.

We must be honest and forthright, willing to say no when the occasion demands. This will be far more comfortable if trustees and administration have made clear that they support turning down dubious gifts. This kind of backing means the most to a conscientious staff person.

The institution's commitment shows when it hires full-time, trained, aggressive personnel. I cannot imagine an annual giving program run by someone who passively waits for donors to take the initiative. No institution tolerates such a situation. But many institutions staff their annuity and trust programs with part-time, undertrained, and underpaid people who then can't possibly run anything other than a passive program.

An aggressive program means that the staff member:

- is encouraged to search out donors;
- has the expertise to adapt a plan to the circumstances of the donor;
- can oversee the preparation of agreements;
- knows how to compute tax benefits;
- can depend upon good investment management as well as prompt and efficient business office service;
- has time to follow up regularly with thanks.

As administrator of the program, what should you expect from your institution as evidence of its commitment? You should insist on:

1. A clear statement that your *primary* responsibility is implementing the program. This means that, when a donor wants to talk, receive a presentation of possible plans, or deliver a gift, you *will* be available.

2. Retention of legal counsel, expert in charitable taxation matters, available when needed.

3. Budget for travel, for cultivating and recognizing donors, and for able clerical support.

4. Professional investment management service.

5. A business office staff capable of issuing checks, maintaining accounts and records, preparing reports and servicing the annuity and trust program in a way that encourages donor confidence.

6. Money to keep yourself up to date professionally by buying publications and attending workshops, seminars, and conferences.

7. Patience to wait for results. At Pomona, our latest analysis of gifts reveals that the average time between the first contact and the first gift is almost two years. (This may be longer than your average time if you solicit alumni. Pomona's program has produced over 80 percent of its donors and dollars from people with no connection with the college as the direct result of public advertising.) In any event, one year will probably be too short a time to evaluate the program. It takes time to build momentum, recognition, and results. But don't let patience be an excuse for procrastination.

8. A written statement of policies and guidelines for the annuity and trust program approved by your president and trustees. If the appropriate committee of trustees can participate in drafting the statement, so much the better. Though there is a natural tendency to worry about its being too detailed, the document should cover a multitude of concerns. In particular, the statement of policies and guidelines should include:

- A warning about conflicts of interest between the donor and the institution. You must not be party to an agreement that benefits the institution at the expense of the donor, and your statement should reflect that determination.
- A caution to staff members not to push donors. Before a gift is made they must provide the prospective donor with as much information as possible regarding the operation of a plan. Also, include the benefits, limitations, and tax implications of the agreement.
- A pledge of complete, unequivocal confidentiality.
- Insistence that the donor consult his or her own financial and legal counsel. To that end, the staff will provide extra copies of all presentations, sample documents, and computations.
- The terms of the authority and responsibility of all persons representing the institution, spelled out for each separate plan. In particular, state who may negotiate agreements, who may do computations and prepare tax letters, and who is to make which reports to the donor. The relationship between the staff representative, the investment manager, and the business office must be clearly delineated.
- A proviso that the Board of Trustees will review and ratify all agreements.
- Clear guidelines for minimum ages, rate ranges, and minimum amounts for each plan.
- Details of procedures for acknowledgment and follow-up.
- A provision for regular review and revision of the policies and guidelines for considering exceptions to them. A special subcommittee of the board of trustees should be authorized to act on short notice on requests for exceptions; this ensures prompt response to a donor.

Institutional commitment uplifts and broadens the vision of everyone from the chairman of the board of trustees to the clerk in the business office. Without such commitment and vision, no board of trustees can expect results in any area of development, but particularly in the search for annuity and charitable remainder trust gifts. CASE

Wanted: Planned gift officer

BY HARVEY DEVRIES
President and Chief Executive Officer
Bethel College and Seminary Foundation
and KAREN GRABOW
Personnel Decisions, Inc.

The demand for planned giving officers vastly exceeds the small supply of trained, competent professionals. As a result, institutions must usually recruit, train, and generally develop their own personnel.

How would you begin? First, you might try to employ a professional from a related field, for example a trust officer, banker, insurance agent, broker, or attorney. Unfortunately, we can't often afford the ones we would most like to recruit. And sometimes previous experience in a related field doesn't carry over to planned giving as well as you might expect.

Another tack might be to try, as most institutions do, to muster your own planned giving force either by reassigning someone or by recruiting an appropriate candidate from among your own friends and colleagues.

Caution! Don't simply latch on to anyone who might be available. Don't redeploy someone who is not effective in another role on your staff or whose present job is obsolete. And don't pull in part-time fund raisers with "real jobs" in teaching or administration or employ alumni with no qualifications other than their enthusiasm.

It takes a long time to train a planned giving officer. Taking pains to select the right person—a person with potential for achievement—will help ensure that the person will stick with the training and remain in the field.

Deciding who has the potential for achievement and providing them with a professional training program isn't easy. Here's what one group did to analyze the problem and offer possible solutions.

Starting the program

In 1972 the Northwest Area Foundation sponsored a planned giving project to help independent colleges in the Northwest help themselves.

Initially, the foundation supplied the money to hire planned giving officers at 18 schools and to provide them with

Dennis Simon/CASE

A planned giving program has little chance of success without firm support from the board of trustees.

Chart 1. Major categories of job performance—deferred gifts officer

The successful deferred gifts officer:

1. **Keeps up-to-date.** Stays abreast of legal and technical developments in estate planning and charitable donations through workshops, seminars, conferences, and publications; remains conversant with developments in education in general as well as with the goals, programs, and trends within his or her own institution.

2. **Provides general information on estate planning.** Initiates regular informational mailings to alumni and other friends of the institution; responds to inquiries; speaks to interested groups.

3. **Identifies prospective donors.** Determines where to spend time to the best advantage: researches respondents to mailings or those who come to the deferred gifts officer's attention through referrals or direct inquiry. Maintains an effective records system and an efficient follow-up procedure to ensure that all contacts receive appropriate attention.

4. **Develops the prospect's interest and commitment.** Patiently but persistently cultivates the prospect through correspondence or personal visits by the deferred gifts officer or others (volunteers may be helpful). Answers the prospect's questions, keeping the prospect mindful of the college and its programs; gains the prospect's friendship and trust.

5. **Determines feasibility of various contribution options.** Elicits information about the prospect's assets and needs and chooses the most appropriate option available; considers the deferred gifts program as a part of the total development picture and remains open to the possibility of current as well as deferred gifts.

6. **Writes the proposal.** Commits the plan to paper in a manner that is both convincing and understandable to the prospect and the prospect's agents; frequently consults with experts to work out details.

7. **Closes.** Discusses, clarifies, and perhaps modifies the plan to meet the prospect's approval; gains the prospect's endorsement.

8. **Ensures that arrangements are properly executed.** Oversees and initiates arrangements through the proper channels (attorneys, trust departments, the college business office, etc.) and communicates with the prospect about them.

9. **Maintains the commitment of the donor.** Ensures that the donor retains confidence in the college and in the wisdom of the decision to make a deferred gift; keeps the donor informed of developments affecting the institution or relevant to estate planning or charitable gifts; keeps the donor open to the possibility of repeat business or of referrals from the donor.

an intensive two-year training program. At the end of the second year, however, a problem surfaced: Almost half the trainees had left their jobs.

Seeing the need to attack the problem of employee selection and retention, the foundation called in Personnel Decisions, Inc., a firm of industrial psychologists and management consultants. PDI has long helped businesses with attitude surveys, job analyses, and personnel selection and development programs.

PDI helped overhaul the program, selecting and training a second group representing 11 schools. Indications are that they were able to improve significantly the program's personnel selection and training procedures.

The personnel selection program

To establish sound selection procedures, PDI first interviewed a number of established career professionals with a high record of achievement in planned giving at a variety of institutions. The information PDI gathered pinpointed activities that seemed to determine success. They added data from people who had experienced great frustrations in planned giving.

During the investigation it became increasingly evident that there was no *one* formula for success. Effective planned giving officers came from diverse backgrounds, had a variety of personal attributes, and followed various routes to success. And their approaches to their jobs were almost as diverse as they were.

Despite this diversity, however, PDI identified 10 major categories of job tasks that must be performed in all planned gifts positions. They are listed in Chart 1.

The next step was to develop a profile of behavioral characteristics of successful planned giving officers. These characteristics are shown in Chart 2. PDI found that charisma or good connections may or may not help; reasonable intelligence, literacy, basic personality skills, and motivation will.

To help with job interviews, PDI then put together an interview format designed to get at instances of the candidate's past experience that might reveal his or her ability in each area. The format enabled colleges to compare candidates more fairly, since all were asked approximately the same ques-

tions. The colleges could also rest assured that the information upon which they based their selection decision was related to effective job performance.

As a final step in the selection process, PDI set up an "Assessment Center," a day-long session in which top candidates were evaluated against PDI's profile of a successful planned giving officer. The Assessment Center technique – widely used in business to spot individuals with supervisory, sales, managerial, and technical potential – stresses simulation exercises.

Behavioral simulations ask the participant to do the same sort of things he or she will have to do on the job. The work samples are considerably closer to actual job performance than paper-and-pencil tests or interviews, and have a good record at predicting success.

Included were:

- an "in-basket exercise" to process paperwork typical of that found in a giving officer's in-basket;
- an initial call on a prospective donor;
- an information-gathering, fact-finding exercise;
- the development and delivery of a stand-up presentation soliciting funds;
- two group exercises measuring persuasiveness, impact, and salesmanship.

Also included in this action-packed day were the more traditional background interview and testing.

A large number of simulations and observers increase the validity of the Assessment Center process. Observers were specially-trained psychologists and consultants. There was one observer for every two participants. A different observer rated each participant in each exercise.

Observers met and arrived at the final ratings on each participant. The observers' judgments were then translated into a final report that detailed the participant's performance and provided a profile of his or her strengths and weaknesses.

The Center report had three uses: First, in some cases a college sent its two or more top candidates to the Center, then used the reports to select the strongest overall candidate. Second, the reports served as a training aid, focusing training efforts on the particular needs of each individual. Third, the re-

Chart 2. Profile: Behavioral characteristics of successful deferred gifts officers

1. Mental ability – the ability to acquire and apply the requisite technical knowledge (i.e., a *conceptual* understanding of estate planning and tax laws); a facility with numbers; the ability to read and interpret government documents.

2. Judgment and decision making – the ability to think on one's feet; to evaluate relevant information, recognize alternatives, and reach logical conclusions based on the evidence at hand without undue vacillation; to handle day-to-day problems in a practical and effective way.

3. Planning and organizing – the ability to structure personal activities (and sometimes the activities of others); to maximize productivity and efficiency; to arrange documentation and information in a systematic manner; to establish objective and measurable plans for accomplishment of goals; to set priorities.

4. Oral communications skill – the ability to use the spoken word effectively and to make oneself understood both in personal, informal settings and before groups; to listen effectively so as to acquire and respond with relevant information; to project an image of credibility and sincerity in one's communication.

5. Written communications skill – the ability to get a written message across in a clear, direct, interesting, and effective manner.

6. Human relations understanding and skill – the ability to perceive and react sensitively to the needs and feelings of others; skill in developing relationships that enhance understanding, communication, and friendliness.

7. Salesmanship – though there is no room for high pressure tactics, the ability to influence, persuade, motivate, and convince others *is* required.

8. Achievement, motivation, and initiative – the tendency to work in accordance with self-imposed work standards and discipline; to be a self-starter; willingness to devote extra effort to get a job done.

9. Persistence – determination to continue to pursue objectives despite disappointments and rejections.

10. Self-assurance – realistic faith in oneself and one's abilities; aplomb that commands the respect of others.

11. Flexibility – ability to adapt and respond appropriately to the demands of various situations.

12. Maturity – ability to delay immediate gratification and short-term rewards in order to achieve long-range goals; emotional and behavioral self-awareness; concern and consideration for the consequences of actions; ability to handle frustration and ambiguity constructively.

13. Commitment – loyalty to one's organization and a belief in the value of education.

14. Follow-through – skill in following up on commitments.

Other "must have" requirements include a bachelor's degree, a willingness to travel, and an acceptable appearance.

port instructed the superior (usually the vice president for development) on how best to supervise and coach the individual on the job.

Training program

The training program is designed to coach both the planned giving officer and the institution.

Workshops and seminars provide systematic instruction in how to find or develop institutional resources, and techniques for getting maximum mileage from these resources.

A training agent also coaches the new officer on an individual basis, helping to meet specific needs.

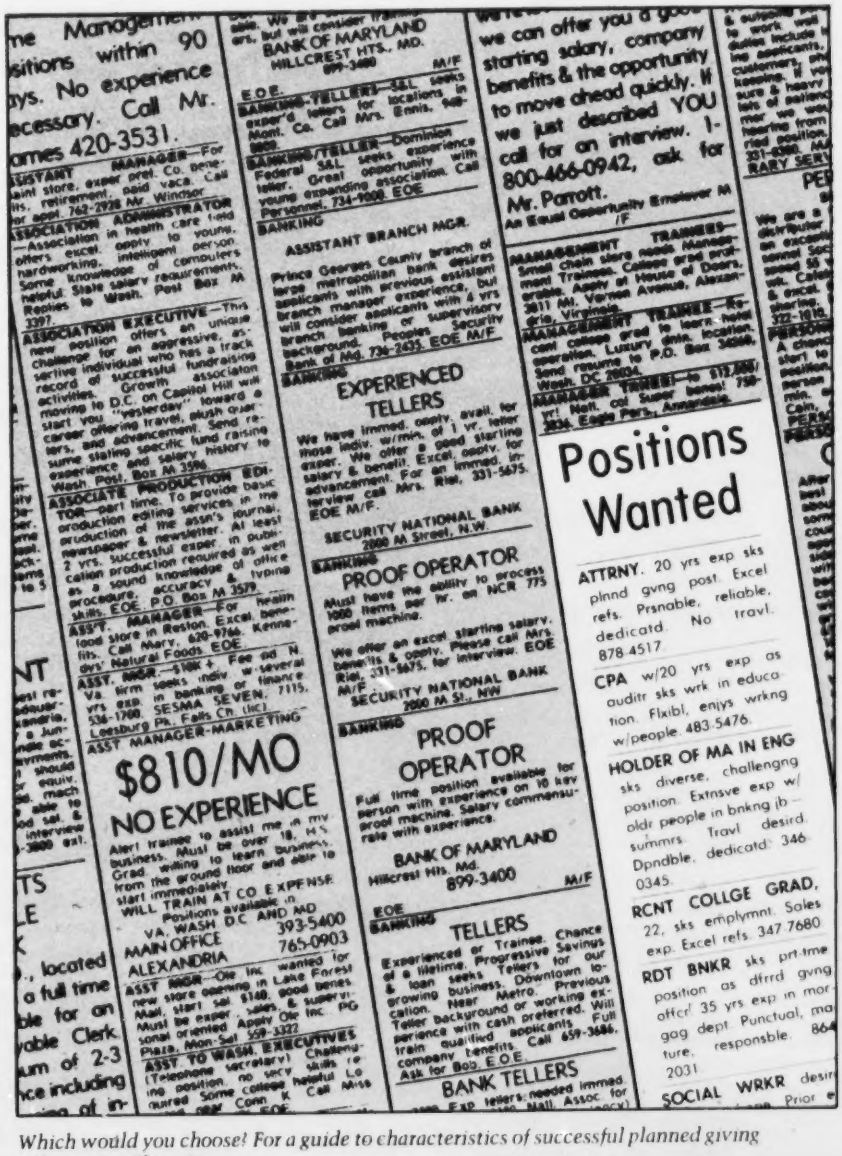
The training agent emphasizes that, in prospect development, "people work" is more important than technical, money, tax, and legal work. Prospect development is process, procedure – and persistence.

The agent also acts as a management consultant to the institution, helping it to secure adequate resources and staff, such as legal, investment advisory, trustee, and other appropriate counsel; tax and marketing services; and resource materials.

In fact, a training program dealing only with the planned giving officer isn't enough! The officer must learn to involve the governing board, administration, business office, and development office. A broad institutional commitment is necessary for success. A planned gifts officer must be able to pass his or her skills on to the institution.

The training program attempts to be responsive to those differences among institutions that may affect the performance of the planned giving program. Therefore, the officer is taught to analyze the institution. He or she must find answers to such questions as: Does the institution have a clearly-defined constituency? How strong is its fund-raising tradition? Where are its alumni? Is there a systematic approach to special and major gift prospect development?

Both the trainee and the institution are urged to take steps to assure continuity – in personnel, in prospect development, and in institutional commitment to the program. Periodical audits, evaluations, and measurement of the relationship between effort and tangible results can go far to support



Which would you choose! For a guide to characteristics of successful planned giving officers, see Chart 2.

continuity and effectiveness.

The results of the second, revamped program are not yet conclusive. However, we note that it took the second group one year to reach the skill level attained by the first group in two years of training and guidance. Significantly, trainee turnover is down. Only two Center grads have left the planned giving field, and one of these left to become president of her college!

Generally, both groups of planned giving officers and institutions in the Northwest Area Foundation project have performed well. Client satisfaction is high – all have recorded measurable progress. The first group of 17 colleges reported more than $38 million in properly confirmed and recorded expectancies by the third year in the program, and the second group of 10 colleges reported $8.8 million after the first year. All are committed to a planned giving program as vital to their fund-raising effort.

If planned giving programs continue to be successful, planned giving officers will continue to be in demand. This pilot program may point the way for other institutions to share the business world's careful approach to selecting and training the people who bring in money. **case**

Managing pooled income fund trusts

BY JANE STUBER
Director of Deferred Gifts and Bequests
Smith College

Your presentation was brilliant. The board voted unanimously to establish a pooled income fund. You assume it will be managed "in house" at no expense to the institution and with scarcely a ripple. After all, your colleagues are being trained to handle the intricacies of federal regulations and current tax laws.

You are about to distribute an attractive two-color promotional piece. Counsel has assured you the Internal Revenue Service will be *pleased* to rule favorably on the qualifications of your proposed new fund.

You have even blocked out time on your calendar to prepare a disclosure statement that—as directed by the SEC—will "fully and fairly describe the operation of the fund." You have tested the market and are confident the response from your constituency will be generous.

Naturally you have assumed your business office will welcome the additional responsibility of day-to-day investment supervision for the fund, even though it does nothing to alleviate the pressures of meeting current expenses. Your chief financial officer has pored over the copious materials you provided—investment prohibitions, suggested targeted rates of return, and impressive lists of required procedures and reporting forms that the federal government wants filed on an alarmingly regular basis.

Then you are startled to learn that these financial wizards wish to decline the honor you are eager to bestow upon them. They plead staff limitations and an already overwhelming list of top priority items.

Or suppose, if you will, that your institution is experienced in managing one or more pooled income funds. Yet there is a growing suspicion that, in the press of everyday activity, the funds may get relegated to a back burner. You're afraid the pilot light may go out.

Having followed up on every donor criticism, you find them to be primarily trivial in nature. Your institution does a more than adequate job of managing its pooled income fund. Yet you, as the up-front person in the development office, must take the brunt of real or imagined donor dissatisfaction. What, if anything, can be done for the mutual benefit of your donors and your institution?

Initially, we at Smith considered outside management for a new pooled income fund because we wanted to avoid a potential conflict of interest. Conceivably, the needs of income recipients could clash with those of an institution vitally interested in the preservation and growth of the remainder interest. We made an intensive preparatory study that included meetings with development and financial officers of peer institutions and large universities investing their own pooled income funds. We realized that if we tried to provide the necessary services we would incur substantial increased costs for staff expansion.

With some misgivings, we made our final decision to turn to an outside trustee. We had managed an on-going annuity program successfully in-house for more than two decades. We were worried that loss of personal contact with donors would prove detrimental to the entire planned giving program. Four years later, experience affirms that, for us, using outside management was and is the most economical, efficient, and satisfactory arrangement.

What we looked for

During a year-long study, we found it reasonable to expect a trust department serving as trustee for a pooled income fund to be responsible for:

1. the receipt and valuation of contributions;
2. the entry of those contributions into the appropriate investment vehicle;
3. the valuation of the fund's assets on specified dates;
4. the determination of income payable to recipients;
5. the remittance of checks on time;
6. the filing of myriad government forms and the handling of accounting procedures;
7. the determination of the annual rate of return actually earned by the fund;
8. the preparation of an annual report for distribution to prospective donors and those already participating in the fund;
9. the furnishing of tax information for income recipients;
10. the distribution of the remainder interest at the death of the income recipient.

We found there were additional available services, although we did not elect them. Institutions preferring to do so can arrange to have income checks sent to them for reissue and forwarding to donors, and a trust department will provide information—to the donor, or institution, or both—about the charitable contribution deduction generated by a life income gift.

In choosing an outside trustee for the Smith College Pooled Income Fund, we looked for demonstrated expertise in institutional fund management. We also required evidence of flexibility and willingness to accommodate (within the framework of federal regulations and our own guidelines) the concerns and needs of the alumnae constituency that is a primary source of support for Smith.

How it works

We chose the Connecticut Bank and Trust Company, and it continues to serve as trustee for our pooled income fund. However, in the agreement between the bank and our own board of trustees, the college reserved the right to change the fund's trustee and to appoint a successor. Thus the IRS considers that Smith College now maintains the fund and exercises control over it.

At Smith, we meet with members of the trust department on a quarterly basis to review performance, plan investment strategy, and iron out potential problems. Regular meetings also make it possible to share donor comments and suggestions so that, together, the bank as trustee and the college as charitable remainderman can work out mutually supportive practices for the benefit of the alumnae constituency. Turning to outside management does not absolve an institu-

tion from a lifelong obligation to its donors.

How Smith benefits

We have not lost personal contact with donors. In fact, the use of an outside trustee has strengthened the bond with alumnae. Donors find it possible to vent freely even minor dissatisfactions without fear of slighting either their alma mater or those who currently administer the institution. Donors know that a friendly campus intermediary is only as far away as the nearest telephone.

We find that a sound working relationship with members of a trust department who know all facets of the Smith account frees our staff to provide better services. We can devote attention to donor needs and prepare promotional information for prospects and their advisers. And we can do the cultivation and education that brings new gifts and additional gifts from those already participating in the fund.

As a bonus, we find the use of a trust department assures continuity that the normal attrition rate in college personnel could jeopardize. We no longer worry that death, retirement, administrative reorganization, or other personnel changes will adversely affect the fund. We know that the trustee is familiar with the fund's particular investment needs and restrictions—such as the avoidance of short-term gains, the prohibition against investing in tax-exempts, and the need to achieve the targeted rate of return without permitting the rate to soar so high in any one year that those entering the fund in the next three-year period are penalized by a reduced charitable contribution deduction.

Whether it is in the best interest of an institution to act as trustee for its own pooled income fund depends on a unique set of institutional circumstances and practices. Nevertheless, the question of management (and performance) is crucial to the overall success of a planned giving program. Planned giving officers should review this question periodically. Then, with renewed confidence (and borrowing from Oliver Wendell Holmes), we may sincerely urge donors: *Put not your trust in money, put your money in trust.* CASE

A roadmap for gifts of land

BY J. ROBERT SANDBERG
Vice President/Planned Gifts
University of Nebraska Foundation

So what's new about featuring gifts of appreciated real property in a capital campaign? Nothing much, except possibly the way we went about it and the scope of our effort here at the University of Nebraska.

Because half of UN's alumni reside in the state and because our state is highly agricultural, we decided to include a special booklet in the campaign literature. But in looking for an off-the-shelf publication to buy, I found nothing that gave a detailed and comprehensive treatment of gifts of appreciated real property. Was I making too much of a minor point? Or had decades of an eastern, urban, stocks-and-bonds orientation in educational fund raising caused us to overlook important new elements in the marketplace?

After two years of experimentation and experience, I'm convinced that these relatively new factors justify increased emphasis on the promotion of land gifts:

- Values of real property—agricultural, commercial, and residential—have soared while the stock market has not. Yet *income* from property, as a percent of its market value, is low. A typical absentee-owned farm or ranch may return to its owner, after tenant shares and management fees, only 2 to 3 percent of its value annually.
- A new class of potential donors has arisen, and we have tended to overlook them—perhaps because their lifestyle is largely unchanged. In many cases these people find it hard to believe their worth and have little philanthropic orientation or experience. Attorneys in farm communities become frustrated urging clients to plan their estates. It's hard to convince an elderly farmer who has been "cash poor" all his life and who is still paying for his last center pivot irrigation installation that he is a millionaire. I suspect that there are many urban counterparts.
- Inflation increases the number of potential donors who will consider a significant transfer of property only if they can retain income. Many older friends of our institutions are desperately seeking ways to increase income from their assets.
- Life income giving methods are gradually becoming better known and more acceptable. They can be particularly beneficial for the donor whose assets have lost their balance—with cash savings and insurance reduced in real dollar value, and with a highly appreciated but low-yielding property, their major, and undiversified, asset.

Starting point

Assume that you, as director of development or planned giving officer, are convinced. The route you follow will depend on your institution, its constituency, and your fund-raising program: The following points, based on what we have done, may give you some ideas.

1. *Review internal policies and staff capabilities* that relate to the acceptance and administration of gifts of real property. For example, there is no point in educating your public about the characteristics and results of a "bargain sale" if it is doubtful your organization could and would make an initial purchase that can run well into six figures. If guidelines are lacking, write them and get them understood and accepted. If there is no one on the staff with the experience and time to arrange for the management or sale of properties, line up outside volunteer or paid professional assistance.

2. *Prepare or purchase a specialized publication* that details suitable giving methods and illustrates results of gifts of real property. It should be both un-

derstandable to a potential donor willing to study it carefully and helpful to the attorney or CPA who has never worked with a "net income plus makeup" type of unitrust. Our booklet is, in effect, a reference to foundation policies on gifts of property. It attempts to make clear some of the things such gifts *cannot* accomplish. With a good booklet, you can write a shorter letter by referring to appropriate sections. It also helps assure the technical accuracy of information that volunteers and staff members convey. We emphasize six ways of giving:

- *outright gift*—for a donor with high income and substantial other assets;
- *life income trust*—for a donor needing all (or more than) the income now produced by the property;
- *place of residence, with retained right to use property*—for a donor desiring a substantial income tax deduction by assuring an eventual gift of the property;
- *"bargain sale" of property*—for a donor whose property value exceeds the amount he or she wishes to give;
- *outright gift by will*—for a donor seeking a reduction in the taxable estate and resulting federal estate taxes, thereby increasing the total amount made available for desired purposes;
- *gift by will, establishing a life income trust for a beneficiary*—for a donor wishing to retain control of the property during his or her lifetime, while improving the financial security of a surviving beneficiary.

3. *Distribute the publication* to as many potential donors as you can identify and to selected groups of possible intermediaries—volunteer leadership, attorneys, accountants, trust officers, other estate planning professionals, and land managers. Send copies to county extension agents if yours is a land grant institution.

4. *Publicize the use of real property* as charitable gifts and the availability of the booklet so that you encourage potential donors of whom you are not aware to nominate themselves for attention. Our capital campaign literature includes a bimonthly tabloid newspaper for all alumni and other identified UN friends. Each of the past nine issues has included a hypothetical planned gift case; five of the nine have been based in whole or in part on real property. An offer of the booklet accompanies each of these articles. We have also used interviews on farm radio stations but these have not equalled the results of our own publication.

5. *Call on potential intermediaries* whenever possible. Supportive alumni, accountants, or county agents are more likely to mention the name of an elderly childless couple with a section of land in a private conversation than in a letter.

6. *Make confidential, individualized calculations* and be prepared to spend considerable time on them. Illustrate how a method or alternative methods would affect pre-tax and after-tax income and estate distribution. Use actual facts or reasonable assumptions that reflect the particular donor's situation. Examples in your booklet cannot cover the range of possibilities. The concepts are difficult enough for your potential donor to grasp without having to adjust for different dollar figures and types of property. By helping the person to understand the benefits you will be strengthening his or her interest in the gift and building some degree of protection against uninformed or self-interested contrary advice.

Caution signs

- To encourage and negotiate gifts of land and personal residences effectively you must recognize the emotional factors involved. Cash is cold; stock in a widely held corporation gives little sense of ownership; but a home has been part of the donor's life. It can be extremely difficult for a couple or a surviving spouse to make an irrevocable disposition of the "family farm." Conversely, the emotional factor can work to the advantage of a respected institution. A donor may find it easier to give the farm and let the donee decide which of the eager neighbors shall buy it—and at what price.

- The negotiator must also be sensitive to the position of the donor's attorney for whom it is not exactly the best news of a Monday morning to learn that a client is considering removing from probate, through a charitable trust, the bulk of the estate's worth. There can be cases in which a living transfer is in the best interest of the owner but, either for emotional reasons or out of a sense of loyalty, only a testamentary transfer is acceptable—at least, as the initial arrangement.

- When the donor says, "I've got a buyer all lined up," make sure there isn't a prior firm agreement. The recipient must be completely free to ne-

gotiate a sale, lest the donor become liable for the capital gains tax on a sale he or she is presumed to have made.

• When land that funds a charitable remainder unitrust represents the major estate asset, and there is the possibility of a surviving life income interest, take care to assure sufficient qualifying assets for the marital deduction. Also make certain of liquidity for any estate tax due after all deductions.

• We all include in our litany of giving methods the gift of a personal residence with a "life estate" (meaning the right of occupancy) retained for the donor. This method presents no problem if the property is a second home, not qualifying for the $100,000 one-time exclusion of capital gain from taxation. The method also suits the owner of a mansion who is capable of buying a replacement condominium in the Sun Belt if the winters become too harsh. On the other hand, what if the house and lot represent a couple's major asset and they later choose to migrate, or are forced to move into a health care facility? We have received conflicting advice on whether it is possible to convert the occupancy right to an *income* interest that will help finance alternate shelter.

(If anyone knows a sure way, I would like to hear about it. If not, perhaps we should propose to Congress that a life occupancy right in a qualified irrevocable gift of a residence ought to be convertible under specified conditions. For example, it could become a 6 percent annuity interest, based on net proceeds of a sale made at the request of the donor or authorized representative, with no further tax implications.)

Roadblocks and detours

• The owner of mortgaged property who desires to avoid capital gains taxation while converting the equity to a life income charitable trust must be advised that Congress and the IRS have made this an unlikely parlay. If your literature establishes that point in advance, it can save time and improve relations.

• There can be strong personal objectives that effectively rule out a gift of land to the University of Nebraska Foundation. A donor's wish to provide income to grandchildren and great grandchildren for many decades would rule out the gift for us. A donor who is unable to understand or accept the variable dollar payments under a unitrust and who insists on a fixed annuity form of payment, leaves us with little choice but to say no. We believe the annuity trust presents a problem if there is any delay in the sale and reinvestment process.

• The value of land, relative to a donor's income, can mean there is no possibility of using up the charitable deduction created by a gift of the land within the limitation on annual use at 30 percent of adjusted gross income and over the six years allowed. Although it is an added complication to explain, an election of the 50 percent limitation through reducing the claimed charitable contribution can often increase total income tax savings.

The donor of one of our largest land gifts and his counsel solved the problem in a different manner. He gave, simultaneously, an undivided *partial* interest in the property to fund a qualified charitable unitrust, for which he received a charitable contributions deduction, and he transferred the remaining undivided interest to a *nonqualifying* (revocable) charitable remainder trust. The foundation is trustee of both trusts, and can therefore manage the property as an economic unit. In subsequent years, additional fractional undivided interests are being given, from the nonqualifying to the qualifying trust, creating additional income tax deductions. The use of the deductions is spread over a longer period of years, and the remainder values are calculated at higher factors for older ages!

The destination

All these cautions should not discourage strengthening your program for gifts of real property. Even though many such gifts are once-in-a-lifetime acts of a small fraction of one percent of a constituency, the potential *value per gift* makes the effort worthwhile for the institution with the necessary patience and resources. If you have a natural constituency numbered in the tens of thousands, alumni in their sixties and older, and an assured role in the future of education, it is a sound investment of time and budget.

Results in our current capital campaign bear out that conclusion. As we close in on the $25 million goal, 34 percent of gift commitments and receipts credited to the campaign total have been in the form of real property. They range from a resort lot to an office building, with agricultural land making up 50 percent of the property gifts. In size, the smallest was valued at $5,000, four gifts exceeded $1 million, and the average value has been in the mid-six figures. The method of giving has varied, with 40 percent of the dollar value received outright, another 40 percent to come through wills of which we have been advised, and 20 percent transferred with some form of life estate retained. In fairness, we would have received a number of these gifts without the booklet and publicity on land gifts. However, we expect that the current program will bring results far into the future.

Alternate route

For the one- or two-person office, let me suggest an alternative that can increase total voluntary support with little added work or technical demand. Use existing means of communication to emphasize the relatively simpler outright and testamentary gifts of real property. For example, explain that income tax savings from an outright gift can easily exceed the donor's original cost, and that a gift of property by will is 100 percent deductible for estate tax purposes at its future value. Mention, also, that income can sometimes be doubled by funding a life income charitable trust with low-yielding property, using a bank as trustee, and suggest discussing a unitrust with an attorney. You won't get as much response as you would from a more aggressive program, but a single gift could repay the effort.

And last, don't let our emphasis on agricultural land obscure the potential within your more urbanized constituency. A parking lot or duplex can be as highly appreciated as 80 acres of corn land. And don't overlook the origins of many of your older alumni, now successful cosmopolites. You might be surprised how many of them have inherited and kept a family farm, or have invested in agricultural property over the years. CASE

Mutual benefits in promoting bequests

BY CHARLES W. PATTERSON, III
Vice Chancellor for Development
University of North Carolina at Greensboro

The statistics are startling. And, if you know the importance of having a will, they are horrifying. One study shows that seven out of every eight adults in the United States die without valid wills. Another shows that every week nearly $100 million, left by people who die without valid wills, will be tied up in state probate courts.

Less than half of adults with estates of $60,000 or more have wills. Of those who do have them, only about 20 percent embody sound financial planning, and an even smaller percentage make provisions for charitable gifts.

In concrete terms, what does this mean? There are plenty of examples. Consider the Wall Street broker who died leaving an estate of more than $25 million. He had no will. During his lifetime the broker had supported many charities, was a respected civic and business leader, and was esteemed as an excellent financial planner. But his sole heir received only one-fifth of his estate. The rest went to taxes, debts, and other costs. The article telling the story of this broker was titled, "Much to the Delight of the Tax Collectors."

Those of us who work for educational institutions may be the most natural ones to help this kind of person. We can find those who need to know about sound principles of estate planning. We can provide a genuine educational service to our alumni and friends by explaining these principles. The mutual benefit will be great: By providing this service, gifts will naturally begin to flow our way.

A wills emphasis or bequest program is a way to do this. In many cases, a gift to your institution through a will is the first step in obtaining other types of planned gifts. Some of your best prospects for a living irrevocable charitable remainder trust are in fact those who have already named your college in their wills. And, of course, almost every kind of planned gift can be made through one's will. Encouragement of wills and bequests is the backbone of a good planned giving program. Here's how you can start:

Methods of promotion

Send survey mailings to announce your program and to evaluate your market. Regular mailing of estate planning literature to a special list of prospects is the most common means of informing constituents. There are a number of good firms that provide such literature with a wide range in price and quality, so shop around.

Send your prospects mailings on special subjects or at special times. For example, send information stressing why women need wills or explaining new tax laws when they are changed. Hold seminars using both volunteer and professional help. You can present programs on charitable giving through estate planning to church groups, civic clubs, and alumni groups.

Advertise your program. Alumni magazines can carry ads, explanatory articles, and feature stories about people who have already made bequests in favor of the institution. These examples encourage others to make similar provisions. Announcements of your program's progress can also be very effective. Report successes in annual reports, campaign case statements, and reports of gifts.

Types of will gifts

1. *Outright Bequest.* These are bequests that, at the time of the estate settlement, pass directly to the college for its immediate use. Types of outright bequests are:

- fixed sum, for example, $1,000, $5,000, $25,000, or some other specific amount;
- fraction or percentage, for example, one half or 10 percent of the estate;
- residue—that portion of the estate left after expense, taxes, debts, and specific bequests (entire residue or percentage);
- specific item, such as furniture or art collection.

2. *Charitable Remainder Gifts by Will.* All life income or life use gifts can be established through wills. These types of gifts are by no means limited to living irrevocable arrangements. They are: pooled income funds, annuity trusts, unitrusts, residences or farms, or charitable gift annuities.

3. *Contingent Bequests.* A clause in the will can provide that the entire estate or a fraction go to a permanent charitable organization if certain other conditions of the will no longer exist (for example, if named beneficiaries are no longer living at the time the will is probated). This is an excellent promotion idea for younger alumni as it helps accustom them to naming your institution in their wills.

Tax aspects

Under current tax laws, the entire amount of a charitable bequest qualifies for the estate tax charitable deduction. Depending on the size of one's estate and the size of the bequest, there could be a substantial estate tax savings. Entire large estates have been left to charitable organizations with virtually no tax implication. However, a donor making a gift by will gets no income tax savings.

Prospects

Identify your prospects by referring directly to past giving records and other records showing associations with the institution. Your prospects should include trustees, alumni, faculty and staff, friends, parents, known estate donors, and support people (professional estate planners and church leaders). The best prospects are those who are single or who are married but childless.

Prospects for bequests turn up in unexpected places; don't overlook anyone. A recent issue of *Trusts & Estates* magazine had an article about two men who had made sizable charitable bequests in their wills. One of them was the very wealthy chairman of the board of Xerox Corporation and the other was a dishwasher and janitor whose estate was valued at over

$300,000. You never know who might be a bequest prospect.

A simple bequest program

A wills emphasis or bequest program can be fairly easy to conduct even in the smallest development office. In a small scale program, you could simply add bequest and will information to your existing mailings and publications. You can elaborate and get more technical as you are able. But the bequest program by its nature is not nearly as technical as a program encouraging charitable remainder trusts and other types of planned gifts.

For the donor, bequest by a will is both simple and convenient. A clause in one's will is all that is needed. The donor has complete use and control of the bequeathed property for as long as he or she needs it because the gift isn't completed until after death.

Program evaluation

Most bequest programs are evaluated in two ways:

1. by totaling bequests that have actually been probated and come to fruition, and

2. by counting expectancies, or bequests that you know about but that you will not get until an indefinite time in the future (i.e., until the death of the donor). The number of expectancies is perhaps more important than the dollar amount because in most cases you will not know the exact dollar amount until your institution actually receives the bequest. Some institutions give an estimated dollar amount of $1,000 for expected bequests with no known value. We do that at UNC-Greensboro. We recently learned that one of our expectancies, originally recorded on our books at $1,000, is currently being probated and will be well over $100,000.

Whenever possible, obtain a copy of that portion of a will that contains the bequest to your institution. You must be tactful in requesting such information. It will be the best record you can have for your files and for your program. You may discover that certain restrictions are included in the bequest that would make it impossible for your institution to get maximum use of the gift. This could give you the opportunity to provide an additional service to your donor by explaining and clearing up this point.

Continuity and patience

Don't start a bequest program unless your institution definitely plans to continue it. Planned giving is a long-range program, and it may be some time before the institution realizes any actual results. Warn the board of trustees, the president, and the development officer that they must have patience. With the financial problems facing us, it is natural to want dollars that are available today. A bequest program just doesn't produce in that way.

A bequest program will yield great rewards but they may be slow in coming. So get your program in full swing—now! CASE

A marketing perspective

Try looking at charitable trusts from the donor's point of view

BY LINDA J. THOREN
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Charitable remainder trusts are essential in any "marketing mix" of gift-giving options designed to maximize major gifts—those of $50,000 or more. For the donor, these trusts combine the intangible rewards of charitable giving with tangible financial benefits. And they offer maximum flexibility in tailoring a giving plan to meet special circumstances.

The charitable income trust (sometimes called the charitable lead trust) is another giving technique, especially useful as an estate tax planning tool for the very large estate. Both techniques are invaluable to marketing-oriented fund-raising programs, those focused as much on the needs of the "target market"—donors—as on the fiscal needs of the institution.

Without doubt the successful use of these techniques depends on firm legal and technical grounding. But ability to spot "marketing opportunities"—situations in which the institution's benefits match the potential donor's needs—is also essential. You can communicate the advantages of life income gift giving most effectively by demonstrating the benefits in terms of a prospect's own circumstances.

A marketing approach

Deferred giving plays an important role in any major gift effort aimed at maximizing a donor's contribution. Deferred giving options seldom hurt your chances of getting a large outright gift. I base my observations on my nine years' experience, first as director of deferred giving at The University of Chicago and later as vice president for development at the Art Institute of Chicago. I consistently found that, when a donor decided to make a life income commitment, it was primarily for one of two reasons:

1. The tax benefits, combined with the opportunity to retain needed income, justified a larger gift than would have been possible outright.

2. The plan let the donor enjoy valuable lifetime tax benefits and psychic rewards by transferring amounts that would otherwise have generated fewer rewards when left as a bequest.

To be eligible for tax benefits, a charitable remainder trust must qualify as an annuity trust or unitrust under Section 664 of the Internal Revenue Code. Such trusts pay specified amounts to designated noncharitable beneficiaries for life or for a term of years. After that, the principal is distributed to charity. They can be used for smaller contributions, but except in special situations, life income plans that allow for common investment of donated assets

(such as a pooled income fund or gift annuity) are more cost-effective for the smaller life income gift.

A marketing approach to charitable remainder trusts must be based on a solid understanding of their tax benefits. Here is a brief summary of the principal benefits:

• The donor is entitled to a charitable gift deduction for the value of the remainder interest. This amount is based on (1) the value of the assets contributed, (2) the age and sex of the income beneficiaries, and (3) the rate of income payout specified by the trust.

• All capital gains tax is bypassed when appreciated property is contributed to a qualified charitable remainder trust and then sold by the trustee. This means that the full proceeds of any sale can be reinvested to continue earning income for the life of the beneficiary.

These immediate tax benefits often translate into increased spendable income for the donor. Many see deferred giving as a way to build a fund for retirement years, undiminished by capital gains tax. For many donors, it provides a way to make a truly important charitable gift without undue sacrifice.

I never assume that an individual who may be generally aware of the characteristics of charitable trusts also knows just how those benefits can help him or her solve a *particular* problem. You should creatively apply a marketing approach to people and their wants and needs rather than to techniques or products. IRS rules dictate that all charitable organizations offer the same basic charitable remainder trust plans. What will distinguish your institution's program is your ability to translate these plans into solutions to your donors' concerns. That's marketing.

Effective marketing means that you must identify high potential prospects and effective volunteers. You must also appraise each one's motivations, develop rewarding relationships, and keep your prospects informed. This takes time. A lag of two to seven years is common between the time an individual begins thinking about a planned gift and actual completion of a gift. You must maintain contact during this period, both personally and through your institution. Use the time to develop a program tailored to the prospect's own needs and concerns. When the time is

right, you can come up with a highly persuasive proposal.

The unitrust or annuity trust

A donor may create either an annuity trust or unitrust by irrevocably transferring money, property, or both to a trustee who invests and reinvests the assets as a separate fund. In the case of the annuity trust, the trustee pays a fixed dollar amount to one or more designated income beneficiaries each year for life or for a term of years. A unitrust can take two forms: a "pure unitrust," in which the income payment is designated as a specified percentage of the assets' fair market value (as determined each year) *or* a "net income unitrust," which pays out all of the net income earned during the year, up to the maximum percentage stated in the trust agreement.

The "net income unitrust" is used far more frequently. It offers more predictability and control than is possible when the income payment depends on the yearly valuation of assets that could fluctuate widely. Also, under the net income unitrust, when the income exceeds the stated payout percentage, any excess goes to the donor to make up deficiencies of previous years. If there were no deficiencies, the additional income is added to the trust principal. It is not possible to retain collections or other similar non-income-producing property in any form of a charitable remainder trust.

Donors must also understand the real limitations as well as the benefits of the charitable remainder trust. Chief among these limitations is the fact that the principal cannot be invaded for the benefit of the income beneficiary, even in dire need. Also, the principal cannot revert to the donor under any circumstances. As a result, such trusts are appropriate only when the donor has enough other assets to meet his or her needs and obligations.

Once established, no further additions may be made to an annuity trust. This limitation does not apply to the unitrust. The trustee may be either the benefiting charity, a bank or trust institution, or even the donor, although you should use special caution in such a case. A donor should not act as trustee either when the value of property placed in trust is not readily ascertainable or when the donor contemplates selling appreciated trust assets and reinvesting in tax-exempt securities.

Charitable remainder trusts are usually not considered in a vacuum but rather in comparison with the other life income alternatives: the pooled income fund and gift annuity. Appropriateness and "marketability" of the plans will depend upon the following:

1. *Economic climate.* Most donors in their late 60's and older are looking for safety and security. The guaranteed income of an annuity trust or gift annuity will be attractive. These plans are most suitable if the assets to be contributed are readily marketable. This will mean that the trust is free to reinvest contributed assets to assure a level of income that is stable and sufficient to meet the guaranteed payout.

2. *Age of beneficiaries.* Although donors who are past 65 usually seek the security of a guaranteed income, "younger donors," 55 to 65, may prefer the possibility of growth—and inflation cushion—provided by the pooled income fund or unitrust. The age of income beneficiaries is also a key factor in determining the value of the deductible remainder.

3. *Income objectives.* You and your prospects should compare the return possible under each available technique, not only on a percentage basis but also in terms of spendable "after tax" dollars. The unitrust and annuity trust can be invested in tax-exempt securities, although these arrangements must be handled with great caution.

4. *Nature and liquidity of assets.* If lack of liquidity is a problem—as with gifts of real estate, closely held stock, or restricted securities—then the "net income" unitrust is usually the only choice.

5. *Amount of principal contributed.* Smaller gifts can be more effectively invested in a pooled income fund or gift annuity. Larger gifts usually can be handled to better advantage in a

separately invested annuity trust or unitrust plan.

6. *Flexibility.* A donor can add assets to a unitrust. You can shift a "net-income" unitrust portfolio from high-growth, low-yield investments in pre-retirement years to higher yielding fixed-income securities in post-retirement years.

7. *Amount of appreciation inherent in donated assets.* The donor escapes capital gains tax when long-term appreciated assets held in a unitrust, annuity trust, or pooled income fund are sold. However, some gain must be recognized when such property is transferred under a gift annuity plan.

8. *Desire for diversification or for investment in tax-exempt securities.* The unitrust and annuity trust provide no built-in diversification of assets although this can be satisfactorily achieved if the fund is large enough. The commingled pooled income fund typically is well diversified but is prohibited from investment in tax-exempt securities.

9. *Choice of Trustee.* The donor can choose a trustee under annuity trust and unitrust plans. The charity must serve as trustee of a pooled income fund.

10. *Testamentary disposition.* Any of the life income plans may be established by will. Careful drafting is essential in order to qualify for an estate tax charitable deduction for the value of the remainder interest.

Spotting opportunity

Charitable remainder trusts are versatile planning devices. They can accommodate many types of assets and you can tailor them specifically to the age and income needs of beneficiaries. A few examples:

1. A corporate executive nearing retirement is interested in higher income from the appreciated securities of his employer company. He has acquired the securities through a bonus, profit sharing, and other arrangements. An annuity trust or unitrust (depending on income objectives) will permit conversion of these securities into other assets at no capital gains tax cost. The charitable deduction is an added bonus.

2. An active and loyal single alumna begins to reach the age when keeping up with her investment portfolio becomes a worrisome chore. The size of her portfolio and income objectives will determine the most appropriate life income gift plan.

3. Members of the community hold "unusual" assets, such as forest property, an orange grove, farmland, tax-exempt securities, or family corporation stock. They are interested in liquidating these to achieve a higher return but are concerned about the capital gains tax bite. The "net income" unitrust permits tax free liquidation and a charitable deduction for the value of the remainder interest. Caution is advised as the tax benefits will be nullified if terms of a sale are negotiated prior to establishment of a trust.

4. An older alumnus holds investments that have declined in value since he acquired them. He now wishes to limit his loss. Even this can be an appropriate occasion for considering a charitable remainder trust. The donor sells the securities, takes his or her loss deduction, and then donates the proceeds of sale to a unitrust that the trustee may then invest in tax-exempt securities. The donor adds a charitable deduction to his or her capital loss deduction while converting sale proceeds into tax-exempts.

The charitable income trust: A sleeper?

The charitable income trust may deserve more attention than it has received since 1969. At that time, the Tax Reform Act drastically curtailed the benefits that had made it an extremely attractive income tax planning device. Now, its principal appeal is as a technique for minimizing estate taxes in the very large estate or as a means of by-passing the normal percentage limitations on the income tax charitable deduction.

Under a charitable income trust, sometimes called a charitable lead trust or short-term charitable trust, the donor places property in a trust for 10 years or more. He or she designates that the income be paid to a charity during that period. When the term expires, the trust principal reverts to the donor or is paid to other noncharitable beneficiaries.

To qualify for a charitable deduction for gift and estate tax purposes, such trusts must provide for a guaranteed annuity to the charity or a fixed percentage (unitrust amount) of the property's fair market value (to be determined and distributed yearly). There is no prescribed minimum percentage of the annuity amount or the unitrust amount. However, under IRS regulations, a donor cannot adjust the unitrust amount to actual income as is possible with a charitable remainder trust. The IRS will allow a deduction for a gift of such an income interest if the trust income is, year-by-year, included in the donor's taxable income. This is an election few donors care to make.

The principal tax benefits of the charitable income trust are (1) exclusion of the trust income from the donor's taxable income during the term of the trust and (2) reduction of the taxable portion of a lifetime gift or of a testamentary disposition to noncharitable beneficiaries.

The charitable income trust has this very practical advantage: The usual 30-50 percent limitations on the charitable deduction do not apply to income distributions from a trust. The donor, in effect, gets an unlimited charitable deduction for the income from property placed in trust for more than 10 years.

Creation of charitable income trusts can be particularly valuable when established by the will of an individual who owns a substantial interest in a family corporation or other assets that he or she wishes to keep in the family. In large estate, high estate taxes may force sale of a portion of the property if it is bequeathed outright to members of the family. Such assets, if placed in a charitable income trust paying income to charity for 10 years or more, permit the estate to claim a charitable deduction for the actuarial value of the income interest.

For example, an estate may claim a charitable deduction for 44 percent of the value of assets placed in a trust paying charity a six percent annuity for 10 years, and the deduction is 59 percent for a 15-year term. For an estate in the 70 percent bracket, this can dramatically reduce the estate tax cost of passing property to the next generation. Family members will be deprived of income from the assets during the term of the trust. Still, this may not be as important as avoiding the necessity of selling assets to pay estate taxes. CNS

23

Tax developments and their impact on planned giving

BY DAVID W. CLARK
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A prominent lawyer-donor once asked me whether I was an attorney. I answered that I had never studied law, but had been practicing it for several years.

That tale panics our college counsel. He takes a dim view of college staff dashing around the country interpreting to sundry donors the tax implications of all varieties of prospective gifts. The possibility that some of the information I disseminate is correct does not ease his panic in the least. On the other hand, the thought that some of my information may be incorrect pushes his panic to the threshold of apoplexy.

The practice of law without a license is strictly *verboten*, but ignorance of the law is inexcusable sloth. Disseminating misinformation about the law will eventually do you in; acquiescing to donor misinterpretation of the law may do your gift program in! So, the moral: Be wise as the serpent, and carry a big apple.

It has been almost 10 years since the Tax Reform Act of 1969 created chaos for donors and development officers alike, particularly in the deferred giving area. For the first third of this decade, a vast amount of potential giving was being deferred until charitable organizations, donors, attorneys, CPAs, and the Treasury itself figured out what the law meant and how it applied to the philanthropically inclined. The frightening thing was that the better one understood the law the more cautious one became. That any charitable remainder trusts actually were set up during those years is a remarkable tribute to the determination of Americans to give (or to the blissfulness of ignorance).

Now, at last, all the pertinent regulations have been published, and the tax reporting forms have pretty well been stabilized. A small but growing number of tax advisers understand the difference between a charitable remainder annuity trust and a charitable gift annuity. And the concept of a unitrust has become clear to those on Park Avenue at, ironically, the precise moment when those on Wall Street have managed to rob it of any attractiveness.

This gradual clarification, however helpful, should not lure us into complacency. We must remain alert to tax changes, which have begun to pile up, and to IRS rulings, which at times tend to reinterpret law and negate the apparent intentions of Congress. Furthermore, Congress itself varies in its sensitivity to the needs of private charitable institutions as various social and economic pressures come to bear. And finally, tax laws that on first blush appear to have little direct bearing on charitable giving may have a serious indirect impact.

We will be examining here only some of these issues: a landmark ruling that affects remainder annuity trusts; the implications for charitable giving of the Tax Acts of 1976 and 1978; and the current pressures in Congress, which bear careful watching in the months ahead.

77-374 and all that

We cannot here explore all of the regulations and rulings bearing on deferred and other charitable gifts since the Tax Reform Act of 1969. A reasonably comprehensive and annotated listing of pertinent regulations and rulings appears in the current edition of *Guide to the Administration of Charitable Remainder Trusts*, available from CASE.

There is one very controversial and alarming ruling, however, with serious implications for donors contemplating charitable remainder annuity trusts. The ruling was issued in a case involving an estate tax charitable deduction that had been claimed on behalf of a decedent whose will had provided for an otherwise valid annuity trust with a specified payout of 10 percent to a woman 61 years old.

Even though the remainder interest tables applying to such distributions indicate the appropriate factor to calculate the charitable deduction, Rev. Rul. 77-374, citing a 1970 ruling (Rev. Rul. 70-452), disallowed any charitable deduction on the general grounds that the trust principal would be consumed in meeting the distribution requirement to the income beneficiary. Hence, no assets would be available to the charitable remainderman. The ruling concluded that, when there was less than a five percent chance that the trust principal would withstand invasion to meet the income distribution requirement, no charitable deduction was allowable – regardless of what remainder interest tables indicated.

The rationale behind this alarming conclusion is significant. The IRS assumed – and this assumption is built into all current IRS interest tables – that money earns 6 percent. It is irrelevant, as far as the regulations are concerned, how trust assets are actually invested; total return is presumed to be 6 percent. Hence, a 10 percent payout requirement theoretically necessitates an annual invasion of principal.

In the case of a 61-year-old woman and a 10 percent annuity, the mathematics inexorably leads to the conclusion that the trust will terminate before the income beneficiary. As the charitable remainderman will receive nothing, no charitable deduction is deemed appropriate.

Those of us who have watched the asset values of remainder trusts erode because of aberrations in the stock market since 1973 surely have to feel some sympathy for the logic of this ruling. Nevertheless, the implications for *any* annuity trust requiring a payout in excess of 6 percent are alarming. One should be cautious in using any annuity trust with a payout requirement exceeding 6 percent, and especially so with younger or multiple-income beneficiaries.

Rewrite the brochures!

Although the Tax Reform Acts of 1976 and 1978 had little in them directly relating to charitable giving, there were some very significant changes in estate and gift tax laws.

There were also income tax sections that have an indirect impact on donors to charitable organizations. To be sure, annual funds are feeling this impact more than deferred giving programs.

The econometric studies of Professor Martin Feldstein, for instance, suggest that the raising of the standard deduction, thus eliminating the benefit of itemizing deductions for millions of taxpayers, is already reducing charitable gifts by more than $1 billion annually. For donors of remainder interests, however, the size of the normal deduction is so large that boosting the standard deduction matters very little. On the other hand, certain tax changes do have peculiar significance for remainder gifts. At the very least they mean we must completely revamp our expensive brochures.

One such change was the 1976 introduction of uniform tax rates for lifetime gifts and bequests. Although the $3,000-per-donor-per-year gift exclusion remains in intact, gone are the $30,000 lifetime exemption for gifts and the $60,000 exemption for estates. In their place is a direct tax credit that applies to the joint gift and estate tax payable on the accumulation of lifetime gifts plus bequests. The amount of the tax credit increases until 1981, when it will peak at $47,000. Such a credit will cover the tax due on the first $175,000 of gifts/bequests. Beyond that point the tax rates climb steeply with the net effect of reducing taxes on modest estates but increasing them sharply on estates over $1 million.

One additional change that helps the average taxpayer is a new marital deduction of one-half of the estate, or $250,000, whichever is greater. An estate passing to a spouse (assuming no taxable lifetime gifts) is therefore tax free up to a total of $425,000.

How do these changes affect charitable remainder gifts? Some will argue that any reduction in tax liability reduces the tax incentive to give. The converse of this, of course, suggests that people with large estates now have stronger incentives to charitable estate planning. Even for those with modest estates, however, there are practical advantages to the uniform Gift/Estate Tax provisions.

Under the pre-1976 law, completed gifts of income interests, whether to spouse or not and whether a future interest or not, were immediately subject to gift tax, with only the protection of the $30,000 lifetime exclusion. Many donors resisted making a gift that generated an immediate tax, and that resistance killed more than one otherwise attractive remainder gift. Even though such gifts are still taxable, the sheltering effect of the new tax credit may help nudge some such gifts to completion.

On the other hand, the increased marital deduction may lull some taxpayers into inadequate estate planning. Planned giving officers should emphasize the advantages, in terms of both investment management and tax reductions for the second estate, of a charitable remainder testamentary trust even at the expense of foregoing some portion of the marital deduction.

In 1976 came another major change with a potentially profound effect on estate planning and hence on charitable giving. After exploring the prospect of taxing capital gains at death, Congress finally voted a compromise: appreciated property passing through an estate would carry with it the decedent's cost basis rather than acquire a date-of-death stepped-up basis. In the case of such property acquired prior to December 31, 1976, cost basis would be established as market value at that date. Complicated formulas determined 12/31/76 market values for assets not publicly traded, such as tangible property and real estate

In time, this change in tax policy could have considerable effect on charitable giving, including deferred gifts (assuming that Congress preserves the precious and always tenuous incentive of allowing a charitable deduction for full market value of appreciated property). The availability of a stepped-up basis at death prompted many potential donors to hold on to assets for the direct benefit of noncharitable heirs. With that feature of estate planning gone, there could well be an increase of testamentary, and even *inter-vivos*, charitable remainder trusts.

As it happens, Congress has had second thoughts about the impact of this change and in 1978 voted to delay applying the new rules until January 1, 1980. It now appears that it may vote even further postponement, or even reversion to the earlier rules. The issue is worth watching carefully.

Then in 1978 . . .

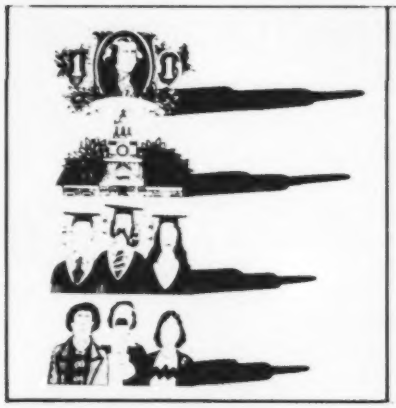
Congress underwent a remarkable change between 1976 and 1978. Widespread concern about inflation, coupled with a slowdown in capital investment, modified the sentiment that the rich got too many tax breaks. Although members of Congress continued to see redistribution of wealth as desirable, they showed greater sensitivity to the need for building up capital and for economic expansion.

The postponement of the new rules affecting basis in estate-acquired property was only one example. The Tax Act of 1978 made two other dramatic changes: The portion of realized capital gain subject to income tax was reduced from 50 to 40 percent. And, in the case of a personal residence sold by a person 55 or older, the first $100,000 of gain was excused entirely. Congress actively considered indexing capital gain against the inflation tables, but finally rejected this possibility. At the same time, the minimum tax laws first introduced in 1969 were revamped in an effort to be sure no one totally escaped taxation, regardless of approved incentives.

The minimum tax changes end—or should end—charitable organization's simplistic claims that "if you are in the 50 percent tax bracket, a $1 million gift will cost you only $500,000." Such statements never were true, but one thing is now certain: the precise tax implications of a charitable gift, whether deferred or outright, are determined by a complex web of considerations few development officers will ever comprehend. Watch out for those exaggerated brochure claims!

Charities are glum about the reduction of capital gains tax liability, especially in the case of a residence. They believe this lessens tax incentive. For shame! Look on the bright side: Any money not sent to Washington is available to a prospective donor to do with as he or she wills. IRS's loss can be our gain if we start pushing the right motivation buttons. Furthermore, there *is* one implication for retained income gifts that we should not overlook, especially those interested in the fixed-income annuity approach.

The charitable remainder annuity trust offered one clear benefit over the charitable gift annuity. Appreciated property could be transferred to the



annuity trust with no direct liability for capital gains tax. With the annuity trust under something of a cloud as the result of 77-734, and with the reduction of tax liability on capital gains distributions, the charitable gift annuity should take on a new luster for potential donors.

Even more attractive is the prospect, newly available, of exchanging a residence for a guaranteed income via the charitable gift annuity. In the typical case of an older couple contemplating selling their home and moving into a retirement center or condominium, the new law makes it extremely attractive for the charitable organization to buy the residence (with a $100,000 gains tax shelter for the seller). This will eliminate problems of ascertaining fair market value, with the seller/donor using the proceeds to purchase a gift annuity with the charity.

With the gift annuity thus established with cash, the annuity payments provide the tax shelter regularly afforded by that form of giving and also elevate the gift deduction from the 30 percent to the 50 percent of adjusted gross-income level. Even if a charity has not previously offered gift annuities, this new development alone suggests a review of policy.

Watch future developments

One thing these changes reveal for certain: Tax policy in this country is in a state of flux. Charities cannot assume they will continue to enjoy favored status. Where some view certain incentives as vital to the perpetuation of private philanthropy, others see them as loopholes by which the wealthy escape paying their share of the burden of society's advancement. One group or another will certainly be pressing for tax law changes in every future session of Congress. The conflicting demands of equity and simplicity, together with the perceived need to manipulate the economy, virtually assure a steady flow of tax "reforms."

Certain issues under discussion by this Congress bear careful watching. Some have particular significance for planned giving programs.

On the positive side

1. Although the right to amend the language of remainder trusts to conform with the code formally expired on December 31, 1978, it is likely that the deadline will be again extended. The need clearly still exists, and we should encourage the extension.

2. There is some hope that the regulations governing remainder gifts in a residence or farm will be modified to allow for the eventual surrender of the right of occupancy in exchange for a 6 percent annuity trust or unitrust. Such a change is not only reasonable but recognizes that few donors are able to maintain their homes right up to the time of death. New regulations would encourage this type of gift and eliminate some of the at best untidy, and at worst illegal, arrangements presently being used.

3. Some in Congress (Packwood, Moynihan, Conable, Fisher, et al.) are pressing to allow taxpayers to claim charitable deductions "above the line" rather than having to list them with other deductions such as mortgage interest payments, local taxes, and so on. The argument is rightly advanced that the tax saving from a charitable gift, from which the donor derives no personal benefit, is quite unlike such savings from other deductible expenses.

With the steady raising of the standard deduction, the above-the-line treatment of charitable gifts would benefit all donors and not just those who itemize. The benefit, especially in encouraging the smaller donor, would be enormous.

Ominous developments

• Professor Surrey's concept of "tax expenditures," which sees every authorized tax benefit as an expense to the national budget, wins new adherents every year. With inflation and a desire to limit the national expense budget, the concept looms again as a potential threat to charitable giving.

• In this regard, two bills, which came before Congress this last session, should be watched very carefully. Both are called "Sunset" bills because they provide for the automatic ending of all budget expenditures at the end of every 10 years. The Senate version, sponsored by Senator Muskie and a majority of Senate members, does not include "sunsetting" of tax incentives. The House version, pressed by Congressmen Gephardt, Blanchard, and Mineta, does embrace so-called tax expenditures, including the deduction for charitable giving.

If the House version passes (and it may), and if it prevails over the Senate version, it would be the most severe threat to voluntary support of education since taxes were invented. Even if Congress renewed the charitable deduction at each "sunset," the uncertainty alone would create chaos. And a very real threat would be posed for two provisions of critical importance for educational institutions, provisions that are already under fire:

1. the charitable deduction based on the fair market value of appreciated property, and

2. the unlimited estate tax charitable deduction.

Development officers, presidents, and trustees should watch closely, and confer with their Congressmen about this innocent-sounding but potentially devastating possibility.

Concluding advice

We can draw two conclusions from even this cursory review of tax changes: First, the educational community needs to stay alert and well informed about Congressional attitudes toward tax incentives to giving and about the Treasury's interpretations of the new tax law. Second, literature illustrating the tax incentives for giving should be ordered only in quantities that can be distributed in one week and printed on material that self-destructs upon reading!

Editor's note: The Guide to the Administration of Charitable Remainder Trusts, *Edition III to which Clark refers is available for $35. Order from:* CASE *Publications Order Department, Box 298, Alexandria VA 22314. Add $2 if you wish to be billed.* CASE

Don't defer deferred giving

BY JAMES R. BERGDOLL
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Picture yourself in this situation: Your college is six years old. You have fewer than 200 graduates, none of them over 30 years of age. You are the director of the annual fund, and you are coordinating a $2 million capital funds campaign. You hold your development-public relations staff meetings while brushing your teeth each morning. Help is on the way in the person of an information services director. Then your president announces: "We must have an aggressive deferred giving program."

This is essentially where we were at Virginia Wesleyan College seven years ago. Our planned giving program is still very modest, but we are encouraged by what has happened in a short time with a lean staff, a minimum investment of funds, and a constituency that, even now, includes barely a thousand alumni with only a handful over age 30.

The first thing we did was to remind the development staff (the president and myself) that we could easily talk with many of our prospects about deferred giving opportunities when we were presenting the annual fund or the building program.

We gave special coverage in our quarterly newsletter to the few, but very important, bequests received by the college. We considered ways we could present deferred giving opportunities even when we lacked a formal program, special literature, and specially trained staff. We talked deferred giving opportunities with trustees, members of the president's advisory council, ministers, faculty, and friends.

Within the United Methodist Church, we talked about the importance of bequests for the future of Virginia Wesleyan College, a vital agency of the church and an important outreach opportunity for it. We sent notices of our bequests to the state Methodist paper and to individual church bulletins.

Although not all bequests have come from United Methodists, our church ties have been very helpful in estate planning. Many ministers, although not all, are willing to encourage planned giving support of Methodist-related colleges. (This holds true for other denominations as well. Roland Matthies at Wittenberg University had a very successful deferred giving program through churches of the Lutheran denomination.)

In our ninth year, we secured the services, at a modest salary, of a retired bank trust officer. We prepared a simple flyer on the importance of bequests, trust arrangements, and life insurance programs for Virginia Wesleyan College. Then our part-time banker-turned-deferred-giving-officer started calling on attorneys with our folder in hand and a personal message about Virginia Wesleyan.

The response has been good. Several attorneys have said they had already included Virginia Wesleyan in their estate planning or intended to do so. Several others have said they had assisted clients who had put Virginia Wesleyan in their wills. Most of the others said they would be alert to this possibility. A follow-up letter from the president went to these attorneys after our representative had visited them.

The next year we mailed to attorneys and some trust officers another folder on estate planning, this one purchased from one of the several companies that produce them.

Our early donors had an inspiring faith in the college's future. The first two bequests to Virginia Wesleyan were written in wills drawn before the college opened. They contained conditions that the school be in existence at the time of probate. Two other bequests have come from wills written during the college's first year. One of these was handwritten. It came from a donor who had never, to our knowledge, been on the campus or spoken to any college official.

So far we have gotten 27 bequests from nonalumni, totaling $820,860.08. Five of these bequests totaling $279,369.71 have come in the past 12 months, and our endowment has grown from a very modest $456,074 to a slightly less modest $800,000. We have 70 cards or letters in our files indicating Virginia Wesleyan has been included in wills. We know of probated wills in which Virginia Wesleyan has a remainder interest in trusts whose total value is nearly $2 million.

If there are lessons to be learned from our experiences, they are:

- Don't defer deferred giving efforts just because you have a small staff or no "formal" program.
- Even a small development staff has many planned giving opportunities. You make your opportunities by always being alert to your college's long-range needs and to the circumstances of your donors and prospective donors.
- Don't underestimate the potential of any donor or prospective donor. Three of our larger bequests came from retired school teachers. Several others have come from retired ministers, one from a retired missionary, and one from the wife of an owner-operator-attendant of a small parking lot.
- Let your constituencies know about any bequests or other trust arrangements, large and small, that have come to the college. A $1,000 bequest may motivate as readily as a larger gift.
- Work first through your established constituencies—alumni, church, board, regents, advisory committee, faculty, and parents.
- Consider using the services of a retired banker, attorney, or accountant if you have a one- or two-person development staff.
- Borrow ideas but give credit where credit is due.
- Use purchased material where appropriate. Excellent material is available, and you can adapt it easily to any size deferred giving program. CASE

27

3

cultivating relationships

Face to face

Cultivating planned giving prospects

BY CHARLES W. COLLIER
Associate Director, Bequests and Trusts Program
Brown University

The truth-in-giving law firmly states that people give to people. This fund-raising dictum is especially appropriate for planned giving because the most effective way to secure and promote gifts is through face-to-face contact. We must get out to meet with prospects if we are to establish the rapport that results in commitment—and more often than not in a repeat gift or bequest.

A time to be cordial

But how do you open the door? Bringing prospects to the school can be an important first step. Although not limited to deferred giving prospects, Milton Academy's one-day visitation program has proved to be a most effective way of cultivating its planned gift prospects. Like Dartmouth's "Horizons" and Brown's "Under the Elms," the "Milton Day Program" brings 25 to 30 selected prospects back to the campus to meet students, hear from the faculty, and experience the excitement of the campus. King Herbert, the academy's director of development, says the program reacquaints alumni with the institution. They leave not only with a more intimate knowledge of their school, but also with a new understanding of its financial needs.

A book plate program has given planned gifts officers at Brown, Duke, and the University of Pennsylvania an entrée with a surprising number of prospects. After learning of the death of an alumna or alumnus, the officer has a book plate inscribed in that person's memory and placed in a newly acquired library book. He or she then sends the family a letter telling of this memorial gesture.

Reunions can provide an opportunity to promote planned giving programs if planned giving seminars or workshops are included in the program of events for the older classes. Also, MIT and Yale hold alumni chapel services during the reunion to commemorate graduates who died in the past year. They go to some lengths to invite widows and families to attend such services.

Donors themselves are effective door-openers. Phillips Academy in Andover has made extensive use of planned giving participants as speakers for and organizers of small regional lunches. Donors talk about the flexibility of gift arrangements and recount how they tailored a gift to their own situation. PA's director of planned giving, Ann Caldwell, says that these meetings have raised awareness of planned giving opportunities and prompted many outright gifts. She adds that small workshops perfectly complement individual visits.

A time to listen

Whether or not you are able to involve prospects in school activities, individual visits are essential. They are the best way to suggest various giving methods and demonstrate the tax implications of a particular gift. These visits allow you to bring the prospects up-to-date on their alma mater and thus foster the loyalty and enthusiasm that reinforces the giving habit.

Cultivation of planned gifts is a slow, one-step-at-a-time process. Some estimates put the average time required to close a deferred gift at two years or six visits—whichever is longer!

You can understand the length of time when you see planned giving within the context of the distribution of an estate. This is a complicated and serious business.

It takes time for the prospect to articulate and address the questions that arise: Why must I have a will? What does my lawyer think? What are my obligations to my family? How liquid are my assets? Should I borrow against my life insurance to make a gift to the pooled income fund? These questions inevitably come up in discussing a capital gift.

How can you encourage people to discuss their estate with you?

• Be well informed about the entire estate planning process. If donors see you as someone who can help and who has new ideas about their finances, they are more likely to disclose the personal data necessary to make effective estate planning decisions.

• Draw prospects out. Ask about their past and *listen* for clues about their resources and interests. Then zero in on one, or at most two, planned giving arrangements that are likely to be appropriate for and beneficial to the prospect. By concentrating on *their* financial affairs, you increase chances of arriving at an attractive estate plan that includes a gift to your school.

• Avoid unproductive details. It is easy to get lost among the many pieces of a prospect's financial puzzle. By focusing on the big picture when exploring the implications of a particular giving program you can suggest creative solutions to their problems without being sidetracked.

A time to give thanks

Too often, I think, we concentrate on the challenge of gift-getting, and spend too little time on the thank-you end of the giving program. Perhaps more than other areas of fund raising, planned giving requires that participants feel appreciated. They must be reassured that they are vital to your institution. Remember, these donors have given something to your school that is important to them.

Joan Rice, director of planned giving at Wheaton College, says the best follow-up is a personal visit once a year by some representative of the college—president, development officer, or professor. Short of that, a personal letter or phone call each year is a "must."

Northwestern's Bill Cline reports that he visits life income donors whenever he is in their area. He notes that past donors are the best customers for future gifts. Cline uses another cultivation technique that pays: He sends birthday cards to all life income participants.

The personal touch must be used in all dealings with life income donors. This includes quarterly mailing of checks. Even if you are a small institution with an outside fiduciary managing your income funds, consider sending the checks in college envelopes with a personal letter. Such mailings also provide a way to ask for year-end gifts or tell donors about a new idea.

In addition to the checks received by the donor, direct mail pieces, alumni magazine articles, and news releases about substantial gifts all serve as a constant reminder of the attractiveness of planned giving. At Brown, we have a financial planning newsletter for donors and prospects called *The Brown Observer*. It informs alumni about the program, tax changes, special giving opportunities, and recent gifts three times a year.

Finally, organize a giving club for your program's participants just as institutions do for their large donors to the annual fund. Dartmouth has such a club for some post-50th classes. Purdue University invites its club members to a black tie dinner once a year.

These suggestions on personalizing the cultivation process, only a sampling of what is possible, have one thing in common: the personal touch that refreshes and rekindles alumni involvement. cnls

Using volunteers

BY ROBERT L. KAISER
Director, Bequest and Estate Planning Program
Dartmouth College

Dedicated volunteers are essential for a broad-based program of planned giving. A paid professional staff alone cannot do the job. No one person or small group—however competent—can provide the personal contact to ensure effective cultivation of all prospects.

With the help of volunteers, Dartmouth's alumni-oriented bequest program has tallied more than $91 million over the last 29 years. Well over half of that amount has come in during the last nine years. Our first bequest program questionnaire in 1951-52 disclosed 125 known expectancies. We now have information on more than 1,300 expectancies, with an estimated value of between $75 and $100 million.

Tapping constituent talent

Your volunteers should come from the constituency you intend to reach. When the constituency already has an organized association—for example, an alumni council—, it should sponsor the program. Otherwise, you should form a committee to initiate and guide the effort. In any case, your planned giving program should operate under the auspices of the volunteers themselves. Your development office will, of course, direct everyday operations, but the volunteer governing body should at least appear to provide overall guidance. A bequest program seen as a volunteer undertaking is more likely to gain support than one that's viewed as a development office project.

Volunteers can serve your program as individuals or as committee members. But it's important to distinguish between those roles. A committee cannot and does not actually cultivate prospects or bring in gifts. Committee planning and prestige can build an environment conducive to obtaining gifts, but a committee is not the instrument for direct action. The individual volunteer cultivates prospects and usually paves the way for someone else to "make the final sale."

Committees are valuable adjuncts to your program. Having prominent persons associated with your program lends prestige to the effort and influences others to take it seriously. Committee members can stimulate the program by becoming recognized participants and by approaching other prospects. Committee members, as intelligent, successful persons with a real interest in what you're doing, can serve as sounding boards for new ideas, appeals, and approaches. Here are some committees you might find useful:

1. *The Prestige Committee*, composed of well-known and influential persons, often including the institution's trustees. The committee can serve as the program's sponsor and is primarily a public relations tool. The endorsement of influential persons is reassuring in such a sensitive area as planned giving. The committee has two important functions: endorsement of the program and guidance of its development. Some members should take a more active role by making a personal commitment under the program, agreeing to work with other prospects, or both.

2. *The Class Bequest Committee*, a prestige committee consisting of eight to 12 prominent persons from each class. Communications bearing the names of these persons appear to come from the entire committee, instead of only one person. Also, serving on a committee can prompt members themselves to make a planned gift. In one Dartmouth class, every member of the 10-person bequest committee now has made a provision for the college, and some are quite substantial.

3. *Professional Guidance Committee*, consisting of volunteer professionals in various aspects of estate planning—lawyers, accountants, trust officers, insurance experts, public relations officials, and so on. A committee of the sponsoring body often can serve as the guidance committee.

At Dartmouth, the Alumni Council, which initiated our program, still has a Standing Committee for Bequests and Estate Planning that sets policy. The committee meets at least twice a year, more frequently if it is considering a new direction. The main function is to provide expert help in areas such as literature, direct mail, marketing strategy and appeals, and organization.

The class touch

Because Dartmouth's program aims to reach alumni, we use the class structure in organizing our efforts. Our alumni identify with Dartmouth through their individual classes, and in most cases they react favorably to appeals from their classmates. Class organization also permits interclass competition.

At Dartmouth a class enters the program when it celebrates its 25th reunion. Most families can't and won't seriously consider estate-planned provisions for charitable organization until the children are out of school and making their own way. Obvious excep-

tions are affluent families, and you should cultivate these prospects as soon as possible.

The foundation of our bequest program is a network of class bequest chairpersons. Some classes also have cochairpersons or regional vice chairpersons, but our office looks to the bequest chairperson alone for leadership and activity. If a class is formally organized, the class president or executive committee should appoint the bequest chairperson after consulting with the development officer in charge of the program. If there is no class structure, the development officer should make the selection. Choose your bequest chairpersons with care. The ideal class bequest chairperson is:

1. well-known and respected in the class and able to talk as an equal with the 10 to 15 percent who will emerge as top prospects;
2. dedicated to the school and the objectives of the bequest program;
3. willing to accept the job for a long time, possibly for life;
4. able to spend time attending reunions and other class functions and cultivating prospects in person;
5. affluent enough to participate in the program as a donor.

A background in law, banking, insurance, or other estate planning profession is desirable but not essential. A bequest chairperson should have a layman's knowledge of the charitable giving field so he or she can make suggestions when the opportunity arises. At Dartmouth, we put more emphasis on personal characteristics than on professional background in selecting class chairpersons.

The chief volunteer in action

The overall goal of the class bequest chairperson is to interest classmates in considering estate planning support of the college and to help them explore ways to accomplish this. An effective chairperson must:

1. Seek information and keep up-to-date files on participating classmates, family members, and prospects.
2. With the help of the development office, send letters and other direct mail to the class.
3. Through correspondence and personal contact, try to build rapport and friendship with as many classmates as possible, especially those who are good prospects.
4. Continually try to identify those persons who are best qualified through geographical locations, friendships, business association, and so on to approach the better prospects in the class.
5. Follow through promptly and consistently on all expressions of interest from classmates and keep the development office informed.
6. Personally participate in the program as soon as possible. Nothing makes the chairperson's appeal more sincere and effective than being able to cite his or her own commitment.

Soft sell philosophy

It's important that your volunteers thoroughly understand your program's overall strategy. The Dartmouth program operates on a no-pressure basis. We seldom approach an individual unless he or she first has expressed an interest in the program. A person properly considers his or her estate planning to be personal business usually resents high-pressure attempts to influence it.

The bequest program strategy is to convert the loyalty and interest of alumni, families, and friends into a conscious desire to support the institution beyond regular annual giving. In attempting to move our prospects to act on this desire, we continually explain to alumni the importance of Dartmouth's capital needs, why the institution deserves support, how they can contribute, and how they can benefit from the various methods of giving. In talking with prospects, we:

1. make the case for higher education and its importance;
2. make the case for Dartmouth—its place in higher education and its program, purpose, plans, and needs;
3. argue the cases for individual programs and parts of the institution needing specific support—library, scholarships, academic departments, and so on;
4. appeal to the person's desire to be remembered and identified with noble purposes and causes;
5. appeal to love of alma mater and the special heritage it has bestowed on its alumni.

Although the Dartmouth program works hard to cultivate those who can make major estate planning provisions, we also seek broad participation. We feel it's possible to have 20 to 30 percent of the class members eventually provide for Dartmouth under this program, and three or four classes already have this level. Techniques we employ toward that goal include:

1. *Direct mail* for long-term, low-pressure coverage of the entire constituency. This includes letters from each class bequest chairperson to classmates and select groups such as widows and special prospects. The development officer makes suggestions, but each bequest chairperson drafts his or her own letters so they will sound personal. This way, the content relates specifically to the recipients. Direct mail should include general letters to all classmates, with or without literature; special letters to certain segments of the constituency, with or without literature; literature without cover letters but with return postcards.
2. *Literature*, an important adjunct to the direct mail effort. This includes the annual "Remember Dartmouth" leaflet, which reviews progress of the program for the past year and contains some soft sell messages.
3. *Other promotion* includes two full-page advertisements annually in the *Alumni Magazine* on life income giving and other specific program subjects; brief items in class newsletters on program developments in the class such as new life income trusts, matured bequests; and a slide/sound presentation on planned giving methods, which is shown to older alumni and their wives at dinners or luncheons hosted by prominent local alumni.
4. *Personal cultivation*, reserved for individuals considered better than average prospects. This is carried on by bequest chairpersons and other alumni volunteers, as well as college officers, including the trustees and president. Personal cultivation does not aim to secure a specific predetermined commitment. It attempts to arouse interest and bring the prospect to the point of taking action. The method of giving will be worked out with the prospect by professional estate planners.
5. *Prospecting*, identifying individuals best able to take action under the program. A select prospect group includes those who have participated or expressed an intention to participate; those who support the annual giving program at $200 or more; and those who are unmarried or married but childless. The unduplicated names us-

ually total 25-35 percent of each class.

6. *Questionnaires*, tactfully worded forms that go out every three or four years with the bequest chairperson's general letter. These forms make it easy for a person to indicate any provisions made for Dartmouth. There is space for expressing an intention to participate and also a place to request information.

7. *Alumni relations.* Dartmouth alumni have intense loyalty and pride in the college and we've been working hard for many years to retain their interest and involvement through numerous alumni activities. We estimate that between 20 and 25 percent of Dartmouth's 37,000 living alumni actively work for the college at any given time.

The never-ending effort to keep alumni interested and involved deserves a major share of the credit for our success. We could never have achieved it without our dedicated alumni volunteers. Everybody benefits. The alumni enjoy meaningful work and a sense of accomplishment. And the college receives the support it needs to function and flourish as an institution worthy of alumni pride. CASE

The initial interview: A step to long-term goals

BY DUNCAN HARTLEY
Director of Financial Planning
Carroll College

Imagine this: You are a "person of means," a success. You have achieved recognition for your accomplishment, and you lead a reasonably comfortable existence. Now the planned giving officer from your alma mater calls and asks to visit you and your spouse. You reluctantly consent. After all, no one from your school has asked to see you since you graduated in 1937.

This person arrives at your home carrying a heavy valise crammed with charts, booklets, and even a blank copy of IRS Form 706, the final accounting that must be made to the government upon your death. You see in vivid detail how your estate will be divided, subdivided, taxed, and taxed again. More likely than not, the deferred giving officer embellishes this presentation with stories about poor souls who died without a will—and how their families suffered.

At the denouement of this interview, the planned giving officer asks you to place a significant part of your estate—the accumulated property and investments that give your family security and peace of mind—in a charitable trust or gift annuity. This gift, you learn, will be irrevocable. You will receive income and enjoy certain tax benefits, but no matter what happens you can never again touch the principal.

What would *you* do? Would you choose income and tax benefits, or would you sit tight? My guess is that you would sit tight.

In my experience, there is a more successful strategy. It focuses on long-term cultivation.

The immediate objective of the critical first interview should be to gain the confidence of the prospect. Over a period of time, as confidence grows, a counselor relationship should develop between the prospect and the planned giving officer. In an ideal situation, the prospect will work along with you as he or she formulates estate plans. A planned gift to your institution will be an integral part of this estate plan.

With the goal of building confidence in mind, and remembering that the process takes time, how do you plan that first contact? Note these points:

• *Make an appointment for the interview.* Let your prospect know why you are visiting, but be sure to stress that you hope to be of service and that you are not going to "sell" him or her.

• *Learn as much as possible about your prospects before meeting them personally.* Do not walk in with a stack of charts and a dozen booklets on every aspect of planned giving unless you know a particular prospect wants to see this material. (I usually prefer to arrive with no papers at all.)

• *Avoid technical language.* Charitable remainder unitrusts and annuity trusts should be called life income agreements—or simply "agreements."

• *Avoid fast talk*—at all costs. Nice and easy does it. What a prospect *really* believes is what he or she will act on.

• *Ask questions.* They can be your most effective sales tool. Questions get the attention of the prospect. They show that you are interested in what he or she has to say and that you are not there to deliver a "canned" sales pitch.

When a prospect starts talking, he or she is more likely to relax and open up. Questions also help you to control the direction of the interview.

Questions help to qualify a prospect. They should help you discover the prospect's family obligations, attitudes toward life, motivations to act, and feelings about your institution. Use questions to discover whether prospects are deeply concerned about taxes and inflation, whether they care about young people, whether public recognition is important to them.

If a prospect is cooperative, the first interview should yield the information you need. Now take time to put together a proposal that will help your prospect meet personal goals. In the second interview, it is much more natural to produce a few charts and some literature.

What, then, did you accomplish in your first interview? First of all, you established a face-to-face relationship with the prospect. You began to gain his or her confidence and you awakened interest in your institution and its future. You've learned something about the prospect's needs and motivations.

The ball is now in your court. It is now up to you to prepare a specific proposal or to decide that none should be made. Some prospects will require continuious cultivation over a period of years while others will react more favorably if you simply keep them on your mailing list. And don't forget this: "Never forget a prospect, and never let a prospect forget you." CASE

How to work effectively with a donor's adviser

BY ROGER THALER
Vice President and Associate Counsel
Colonial Williamsburg Foundation

Pat Morrison/CASE

To give away money is an easy matter,
and in any man's power.
But to decide to whom to give it,
and how large and when,
and for what purpose and how,
is neither in every man's power—
nor an easy matter.
Hence it is that such excellence
is rare, praiseworthy, and noble.
—ARISTOTLE

Aristotle's observation seems to become truer as time moves on. Deciding how to make a gift—whether it should be an outright gift or deferred, and, if deferred, whether a unitrust, annuity trust, life insurance contract, or gift by will—is a complex matter. Such intricacies call for specialized knowledge.

When a potential donor, therefore, considers a major gift, it is natural to turn to his or her lawyer, accountant, or other adviser. This adviser, then, becomes a key person in the transaction, and your relationship to that adviser a key factor.

My thoughts on that relationship are influenced by having sat on both sides of the desk—as a practicing lawyer and as a development officer. If the transaction is to proceed smoothly, each must know the proper extent of his or her role.

What is your role as development officer in transacting a major gift? Here are points to remember:

- Do not try to act as or present yourself as the donor's sole adviser. You are part of the estate planning team, together with the donor's lawyer, accountant, trust officer, investment counselor, and other advisers. You represent your institution, not the prospective donor.
- Cooperate in every way with the donor's adviser. Urge the donor to consult his or her own adviser, and be certain that the adviser knows that you have done so.
- Convince the donor's adviser of the appropriateness of the gift to your institution. The adviser may be unable or unwilling to encourage the donor to make a gift to a *particular* institution.
- Encourage the donor's adviser to leave the decision up to the client, rather than advise the client not to make the gift. Very often this means that you must convince not only the donor but also the donor's adviser of the merits of making the gift.
- Be mindful of the attorney-client relationship. The lawyer cannot—without the client's consent—share infor-

mation about the client with the development officer (or anyone else).

• Remember that the donor is making an important decision and considering much sensitive information. When you ask a donor to provide for the financial security of your institution, you are really asking him or her to make the institution a part of the family. Treat the entire major gift solicitation with the dignity and integrity that such situations demand.

• Follow up and complete the transaction yourself. Do not expect the donor's adviser to do your work. If the donor has given you permission to work with his or her adviser, then take the initiative and offer to provide the donor's adviser with any information, including draft forms, necessary to complete the gift.

• Do not arrange for your institution to pay the legal fees for a donor. If the institution were to pay the donor's counsel, the donor or the donor's heirs could allege that the donor was improperly represented and the gift therefore void. If a donor is reluctant to pay for attorney's fees, suggest that the gift be reduced by an amount necessary to pay them. The donor's legal fees are deductible under Internal Revenue Code Section 212 (3).

• Do not assume, unless you know it to be true, that the donor's lawyer is an expert on the tax implications of making deferred gifts. This may be the development officer's special area of concentration, whereas the donor's lawyer may be engaged in the general practice of law. Provide all necessary information.

• Finally, remember that a substantial deferred gift is rarely made if the donor's advisers are not convinced of the merits of making the gift. It is up to you to convince them. CASE

Educating the experts

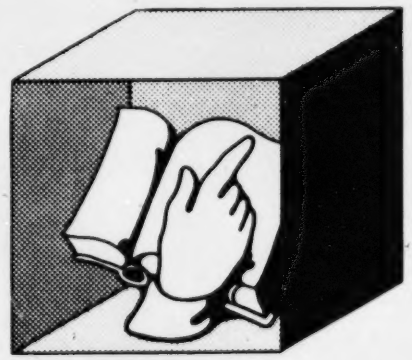
How to organize a seminar about charitable giving for attorneys, CPAs, trust officers, and others

BY BRUCE W. FLESSNER
AND JOHN S. RYAN
Development Officers
University of Minnesota Foundation

She was 84, single, and living in New York City. The modest amount of Minnesota Mining stock her father had given her many years ago had greatly appreciated. She wished to honor her parents by establishing a cultural fund at the University of Minnesota at Duluth, where she had grown up. But her attorney kept advising against establishing a unitrust.

A visit to the attorney seemed called for, so a university development officer and the prospect went to her attorney's office. The attorney stared at the papers and finally admitted, "We've never seen one of these. Is this unitrust unique to the State of Minnesota?"

Many financial advisers themselves recognize their need to know more about charitable giving vehicles. To help meet this need, last spring the University of Minnesota sponsored a one-day seminar, "Using Charitable Giving in Professional Estate Planning for Tax Clients." Over 100 attorneys, life insurance underwriters, financial advisers, trust officers, and a limited number of entrepreneurs came to learn about the missing ingredient in tax and



estate planning.

The seminar was not another one-day "Introduction to Estate Planning" for the general public. Rather, it was aimed at the practicing professional.

We got the idea in the spring of 1978. As the first step, we enlisted the Department of Continuing Business Education's sponsorship because its staff would do most of the work in organizing the seminar. Also, Continuing Education gave the seminar credibility as a professional workshop, not a public relations venture for the university.

Next, we established a steering committee chaired by the director of conferences at Continuing Education. This group included representatives of the legal, banking, accounting, life insurance, and financial fields.

The committee planned a program that met the needs of the participants and identified top professionals to serve as speakers. Also, its membership ensured that the seminar would qualify for legal and accounting continuing education credit.

The committee chose as seminar moderator a university professor who is a widely acknowledged expert in tax planning. However, the actual lectures were conducted by a CLU, a trust officer, a tax lawyer, a CPA, and an entrepreneur who is a generous benefactor of many causes. No development officers were on the program.

Because the audience would include people from a variety of backgrounds, viewpoints, and levels of knowledge, we decided to avoid a technical review of the tax code. Instead, the speakers used the case approach. Each lecturer presented a case reflecting different kinds of needs. They emphasized creative problem solving to meet a client's needs and interests.

The high point of the day came when the local entrepreneur shared his own real life situation. In addition to demonstrating creative financial and estate planning, it proved to be a great testimonial. Charitable giving had enabled him to diversify his portfolio and create a new independent income stream. It had helped him meet his family needs and fulfill his philanthropic interests.

34

Based on the evaluations, the day was a great success. We believe that the seminar, by providing a chance to acquaint or refresh the estate planning professionals with charitable giving, will help all area charitable institutions as they work with donors.

At this time, the university is planning to conduct two seminars in 1980: a basic and a more advanced program. We are also considering taking the seminar to other areas in the state.

As a result of our experience, we have these suggestions for you if you're considering a similar seminar:

1. Promote charitable giving and professional competence, not your institution. Any effort to push your college or university, instead of teaching about how to help clients with needs, will probably fail.

2. Don't let development officers—or any other groups—dominate the audience. We aimed for a balance of lawyers, CLUs, accountants, trust officers, and others. We received a surprisingly strong response from development officers of other charitable organizations. While we let a small number attend, our seminar was not designed to educate development people. Other seminars meet this need.

3. Make certain you have good planning, strong organization, and lots of lead time. It took eight months from our initial planning meeting until the day of the seminar.

4. Get the best people as your speakers and emphasize the team approach to estate planning. If you can establish continuing education credit for various professional groups, it will give your program a boost.

5. Use the case approach. It is interesting and promotes audience participation. On the other hand, don't neglect to review major charitable giving vehicles. We did and found that it was unwise to assume too much. For example, at lunch one of the participants quietly inquired, "Is the 'uni' in unitrust related to *uni*versity?"

We recommend that your office, through your continuing education department or in conjunction with other schools, sponsor similar workshops. As more people in influential positions become aware of and familiar with charitable giving options, all of our institutions will benefit. CASE

You and the business office

How to build solid relationships between the development and business staffs

BY JAMES STEVENS
Vice President for Finance and Treasurer
Knox College

Your business office can be a powerful ally in obtaining planned gifts. It also plays a central role in the management of such gifts. If you have a close, cooperative relationship between the development office and the business office, your institution benefits greatly.

Arranging gifts

Wills and bequests. When the development office is negotiating with a donor on a proposed bequest, it should make the business office aware of the donor's plans. It is not uncommon for attorneys to call the business office when drafting a will. Letting the business office know in advance what is coming helps avoid mistakes.

Sometimes donors make restrictions that either complicate managing the assets left to the institution or make using the gift difficult or even occasionally impossible. Very often the business officer can suggest the change of just a few words in a will that can make a significant difference in the value of a gift to the institution.

Also, you will probably find that the donor responds positively to the involvement of someone from the financial side of the institution. This participation helps demonstrate your institution's appreciation of the gift.

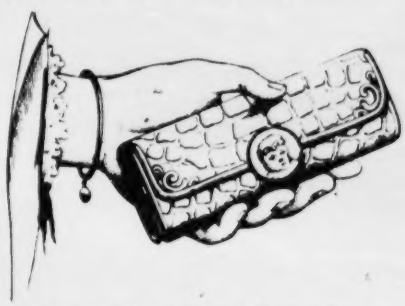
Gifts subject to reservation of life income. These gifts, which include life income pools, annuities, annuity trusts, and unitrusts, involve many business office functions. The development and the business offices should jointly decide a number of questions, including:

1. Which of the various types of life income contracts should the institution accept? In our case we have two life income pools and all of the other types of life income agreements.

2. What is the minimum gift you will accept in each type of life income agreement? We at Knox try to have a minimum of $5,000 for life income pool gifts and gift annuities, and a $25,000 minimum for unitrusts and annuity trusts. We set a higher limit on the latter because it is hard to diversify investment risk on a small trust and because the handling costs and difficulties are much greater.

3. What limits will you set on the number of lives covered and on the minimal acceptable age of each person? At Knox, we try to limit ourselves to two lives and to people over 50. We do consider exceptions if it is clear that this is the only way to serve our interests and those of the donor.

4. Will the investments and payments be handled by the college or by a trust company or bank? We handle our own, but there are many good reasons to use outside trustees.



The business office can often suggest language that will greatly increase a will's value to the institution.

5. Will the institution accept property other than cash or marketable securities for life income gifts? We have occasionally done so but only after making sure that the assets are reasonably marketable. In such a case we make certain our legal counsel and board of trustees approve.

When arranging life income gifts, let the business office know when you expect a gift so that it may plan for investments. As in arranging bequests, the business office should review all but the most routine agreements at a very early stage. For each gift, the development office should prepare a memorandum explaining the donor's situation and noting any special wishes or problems that the donor or other life income recipient has.

Agreements stand for many years. Is your recordkeeping system reliable?

Managing your planned gifts

It's essential for both the business office and the development office to have access to complete written records of planned gifts and all pertinent background information.

The business office needs these records because it is responsible for sending checks and tax returns to those receiving payments under the various planned giving arrangements that continue for many years. Some payments begin many years after the development officer worked with the donor to set up the arrangement. And business officers work with attorneys, banks, and executors to settle estates.

The development officers should meet regularly with those in the business office who process these gifts. They should make sure that each office understands the other's point of view.

All important information on donors' wishes should be in writing and filed in duplicate files in both offices or in one central file that is accessible to both departments. Wills, leases, contracts, deeds, life income agreements, and all other such business should be safeguarded in the same way.

These agreements stand for many years with many different people in both offices handling them. You must have reliable records to assure meeting the donor's wishes.

Once a gift is set, it helps for the business office to forward all checks, tax returns, and other business office correspondence with life income recipients to the development office. The planned giving officer then mails them to the recipients. In that way the development office maintains contact with the donor. This contact may lead to future gifts. Moreover, it gives one more set of eyes a chance to catch errors or ambiguities before they reach the donor.

In the case of unitrusts, take care to review occasionally the recipient's investment wishes. In what form does the donor prefer to receive income? How aggressive, and therefore risky, an investment policy meets these desires? The final investment decision rests with the trustees, but they can be guided by the donor's needs. The investment officer should always be involved in such discussions.

Both offices need access to gift records.

Finally, remember that planned gifts are just *part* of the business office's concerns. Your help and understanding can go a long way in assuring that the business office will cooperate fully in building your donor's confidence in and respect for the institution.

36